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DEPARTMENT OF AGRICULTURE

Commodity Credit Corporation

7 CFR Part 1477

Disaster Payment Program for 1989 Crops

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Final rule.

SUMMARY: The Disaster Assistance Act of 1989 (the 1989 Act) provided assistance to eligible producers for losses of 1989 crop production due to damaging weather or related conditions in 1988 or 1989. The Food, Agriculture, Conservation, and Trade Act of 1990 (the 1990 Act) amended the 1989 Act to expand coverage of the 1989 Act to producers of nonprogram crops which were cropped more than once on the same farm in 1989 if such producers were located in counties declared to be a Presidential disaster area due to Hurricane Hugo. The Dire Emergency Supplemental Appropriations Act for Fiscal Year 1991, Public Law 102–27 (the 1991 Act), provides an appropriation of $1.4 million for such losses. Accordingly, this rule adopts as final the interim rule published June 11, 1991, that implemented these provisions.

EFFECTIVE DATES: This final rule shall become effective on August 19, 1991.

FOR FURTHER INFORMATION CONTACT: Charles M. Cox, Jr., Program Specialist, Cotton, Grain, and Rice Price Support Division (CGRD), Agricultural Stabilization and Conservation Service (ASCS), United States Department of Agriculture (USDA), P.O. Box 2415, Washington, DC, Telephone: (202) 382–8757.

SUPPLEMENTARY INFORMATION: This final rule has been reviewed under USDA procedures established in accordance with provisions of Executive Order 12291 and Departmental Regulation No. 1512–1 and has been classified as "non major" since the program will not result in: (1) An annual effect on the economy of $100 million, or more; (2) a major increase in costs or prices for consumers, individual industries, Federal, State, or local governments, or local geographical regions; or (3) significant adverse effects on competition, employment, investment, productivity, innovation or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

It has been determined that the Regulatory Flexibility Act is not applicable to this final rule since the Commodity Credit Corporation (CCC) is not required by 5 U.S.C. 553 or any other provision of the law to publish a notice of proposed rule making with respect to the subject matter of this final rule.

An Environmental Evaluation with respect to the Disaster Payment Program was completed for the 1989 program. It has been determined that this action is not expected to have a significant impact on the quality of the human environment. In addition, it has been determined that this action will not adversely affect environmental factors such as wildlife habitat, water quality, air quality, and land use and appearance. Accordingly, neither an Environmental Assessment nor an Environmental Impact Statement is needed.

The titles and numbers of Federal assistance program to which this rule applies are: Title—Cotton—10.502; Feed Grains—10.055; Wheat—10.058; Rice—10.065; as found in the Catalog of Federal Domestic Assistance.

This program/activity is not subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with State and local officials. See the Notice related to 7 CFR part 3015, subpart V, published at 48 FR 29115 (June 24, 1983).

Background

The 1990 Act amended the 1989 Act to provide for disaster payments, subject to Congressional action providing for funds in advance by appropriation acts, for 1989 crops that are grown in a county declared to be a Presidential disaster area as a result of Hurricane Hugo. The 1991 Act subsequently enacted provided $1.4 million for such payments. In order to implement these provisions, this final rule provides that producers who are eligible for such payments must produce nonprogram crops in those counties in South Carolina, North Carolina, Virginia, Puerto Rico, and the United States Virgin Islands declared by the President to be disaster areas as a result of Hurricane Hugo. Furthermore, such producers must have incurred a loss of at least 50 percent in order to receive such payment. All application for payments must be submitted by August 12, 1991. This final rule also provides that the total payments for all producers is limited to $1.4 million.

An interim rule was published on June 11, 1991 (56 FR 26761), allowing for a 30 day comment period. No comments were received in response to the interim rule. Accordingly, the interim rule is adopted without change.

List of Subjects in 7 CFR 1477

Agricultural commodities, Disaster assistance, Fraud, Grant programs—agriculture, Reporting and recordkeeping requirements.

PART 1477—[AMENDED]

Accordingly, the interim rule amending 7 CFR part 1477, which was published at 56 FR 26761 on June 11, 1991, is adopted as a final rule without change.

Signed at Washington, DC, on August 13, 1991.

John A. Stevenson,

Acting Executive Vice President, Commodity Credit Corporation.

[FR Doc. 91–19764 Filed 8–16–91; 8:45 am]
BILLING CODE 3410–05–M

SMALL BUSINESS ADMINISTRATION

13 CFR Part 108

Loans to State and Local Development Companies; Statutory Public Policy Goals

AGENCY: Small Business Administration.

ACTION: Final rule.

SUMMARY: On November 5, 1990, the President signed Public Law 101–515, the Appropriations Act for the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies for the

Fiscal Year ending September 30, 1991. On November 15, 1990, the President signed Public Law 101–574, the Small Business Administration Reauthorization and Amendment Acts of 1990. Section 214 of Public Law 101–574 made several amendments to SBA's Development Company Loan program. In order to implement the law, SBA is issuing this final rule incorporating the language of the statute, as well as several necessary conforming amendments, into the program regulation. Accordingly, the following rule changes are required: (1) Restatement of the economic development objectives for Development Company loan programs, (2) increase in the maximum loan amount from $750,000 to $1,000,000 for loans that meet specific public policy goals, and (3) continuance until October 1, 1994, of SBA's authority to set interest rate ceilings for third party loans made in conjunction with 504 loans. Additionally, two typographical errors are corrected.

EFFECTIVE DATE: Effective August 19, 1991.

FOR FURTHER INFORMATION CONTACT: LeAnn M. Oliver, Deputy Director for Program Development, Office of Economic Development, Small Business Administration, 409 3d Street SW.-8th Floor, Washington, DC 20416, Telephone (202) 205–6485.

SUPPLEMENTARY INFORMATION: The changes in this amendment are designed to codify the statutory changes made by the new legislation and conform existing regulations. Section 108.1 is amended by revising paragraph (b) to incorporate the statement of purpose contained in the Small Business Investment Act, as amended by Public Law 101–574, section 214(a).

Paragraph (c) is amended by incorporating statutory criteria for eligibility for development company loans imposed by Public Law 101–574, section 214(b). These criteria enumerate economic development objectives including seven public policy goals. Two existing statements of permissible economic development objectives are retained. Paragraphs (c)(2) (iii) and (vi) are consistent with the new legislation and are well-known and understood by the small business community eligible for these loans. Applicants satisfying one or more of these seven public policy goals are now eligible for up to $1,000,000 in assistance under the development company loan programs. (15 U.S.C. 696, Pub. L. 101–574 section 214(c)). Sections 108.502–1, 108.503–4(c)(2) and 108.503–9(a)(8) are revised to reflect this change from the existing regulations that set a $750,000 limit in all cases. Applicants satisfying a public policy goal, or the objective of community or area development are exempted from the SBA-imposed job creation requirement if the development company's overall portfolio meets or exceeds the job creation criteria.

Lastly, SBA's current authority to set interest rate ceilings for third party loans made in conjunction with development company loans continues until October 1, 1994.

This rule is being promulgated in final, without notice and an opportunity for public comment, because it directly incorporates statutory language, and necessary conforming amendments, into SBA's program regulations. As such, pursuant to authority set forth in the Administrative Procedure Act, 5 U.S.C. 553(b)(B), notice and public procedure thereon is unnecessary.

Compliance With Executive Orders 12291 and 12612, the Regulatory Flexibility Act and the Paperwork Reduction Act

SBA has determined that this rule, taken as a whole, does not constitute a major rule for the purposes of Executive Order 12291. The annual effect of this rule on the national economy is not expected to attain $100 million. The impact of increasing the maximum loan amount from $750,000 to $1 million for projects that achieve a public policy goal is not expected to exceed $50 million. The other items are of a nature that will have no economic impact.

These rules will not result in a major increase in costs or prices to consumers, individual industries, Federal, State and local government agencies or geographic regions, and will not have adverse effects on competition, employment, investment productivity, or innovation.

SBA certifies that these rules do not warrant the preparation of a Federalism Assessment in accordance with Executive Order 12612.

For the purpose of compliance with the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, the provisions of this rule may have a significant economic impact on a substantial number of small entities. The following analysis of the provisions is provided within the context of the review prescribed in the Regulatory Flexibility Act (5 U.S.C. 603).

1. These regulations are promulgated:

(a) To implement Public Laws 101–574 and 101–515; and,

(b) To conform existing regulations to the requirements of the new law.

2. The legal bases for these regulations are section 5(b)(6) of the Small Business Act, 15 U.S.C. 634(b)(6); sections 308(b) and 503(a)(2) of the Small Business Investment Act, 15 U.S.C. 687(b) and 697(a)(2); and Public Laws 101–515 and 101–514.

3. These regulations, taken together, apply to all 503 companies and to all small concerns applying, or contemplating an application, for assistance under this program. While it is impossible to estimate their number, we can say that 1,598 debenture guarantees were made by SBA in FY 1990.

4. There are no additional reporting, recordkeeping and other compliance requirements inherent in these rules.

5. There are no Federal rules which duplicate, overlap or conflict with these rules.

6. There are no significant alternate means to accomplish the objectives of these regulations.

For purposes of the Paperwork Reduction Act, Public Law 98–115, 44 U.S.C. Ch. 35, SBA certifies that these rules impose no new reporting or recordkeeping requirements.

List of Subjects in 13 CFR Part 108

Loan programs—business, Reporting and recordkeeping requirements, Small businesses.

PART 108—[AMENDED]

For the reasons set forth above, part 108 of title 13 of the Code of Federal Regulations is amended as follows:

1. The authority citation for part 108 is revised to read as follows:

Authority: 15 U.S.C. 687(c), 695, 696, 697a, 697b, 697c.

2. Section 108.1 is amended by revising paragraphs (b) and (c), by redesignating paragraph (d) as paragraph (e), and by adding a new paragraph (d) to read as follows:

§ 108.1 Policy.

* * * * *

(b) The purpose of the development company loan programs is to foster economic development and to create or preserve job opportunities in both urban and rural areas by providing long term financing for small business concerns through the programs authorized by title V of the Small Business Investment Act, as amended.

(c) In order to qualify for assistance under this part, the development company must demonstrate to SBA's satisfaction that the project to be funded will affect at least one of the following economic development objectives:

(1) *Jobs.* The creation of Job Opportunities within two years of the completion of the project or the

preservation or retention of Job Opportunities attributable to the project;

(2) *Community or Area Development.* (i) Improving the economy of the locality, such as stimulating other business development in the community,

(ii) Bringing new income into the area,

(iii) Assisting businesses in labor surplus areas as defined by the U.S. Department of Labor (see § 108.503(c)),

(iv) Assisting the community in diversifying and stabilizing its economy, or

(v) Assisting manufacturing firms (Major Groups 20–39 of the SIC Code);

(3) *Public Policy Goals.* The achievement of one or more of the following public policy goals:

(i) Business district revitalization (See § 108.2),

(ii) Expansion of exports,

(iii) Expansion of minority business development (See § 108.2),

(iv) Rural development (See § 108.2),

(v) Enhanced economic competition, including the advancement of technology, plant retooling, conversion to robotics, or competition with imports,

(vi) Changes necessitated by Federal budget cutbacks, including defense related industries, or

(vii) Business restructuring arising from Federally mandated standards or policies affecting the environment or the safety and health of employees.

Application for Community or Area Development projects or those meeting a Public Policy Goal shall include written documentation identifying how such project meets the specified economic development objective.

(d) If project eligibility is based upon the criteria set forth in paragraph (c) (2) or (3) of this section, the project need not meet the jobs objective; Provided, the overall portfolio of Development Company Loans made pursuant to this part meets or exceeds such job objective (see § 108.503(c)).

* * * * *

3. Section 108.502–1 is amended by revising paragraph (d)(2) to read as follows:

§ 108.502–1 Section 502 loans.

* * * * *

(d) *Loan amount.* * * *

(2) Development companies may be eligible to be considered for such additional loans of not more than $750,000 each, as there may be additional identifiable small business concerns to be assisted; provided, however, that loans made for projects which satisfy the criteria of § 108.1(c)(3) shall not exceed $1,000,000.

* * * * *

4. Section 108.503 is amended by revising paragraphs (b) introductory text, (b)(1) and (b)(2) to read as follows:

§ 108.503 Program objectives.

* * * * *

(b) *Purpose and objective.* In accordance with § 108.1(b) of this part, the purpose of this program is to provide a portion of long term fixed-asset financing for small business projects through the guarantee by SBA of 503 Debentures or 504 Debentures issued by 503 companies. Such project must achieve at least one of the economic development objectives set forth in § 108.1(c) of this part.

(1) *Jobs.* To effect, at a minimum, one Job Opportunity per $35,000 of 503 debenture assistance. The Job Opportunity estimate shall be based on objective data and the basis for such estimate shall be submitted with the application for guaranty (SBA Form 1244).

(2) *Other objectives.* Projects achieving another economic development objective as set forth in § 108.1(c) (2) or (3) will be considered eligible only where the overall portfolio of 503 Loans and 504 Loans made pursuant to this part meets or exceeds the Job Opportunity average as set forth in § 108.503(c).

* * * * *

5. Section 108.503–4 is amended by revising the last sentence of paragraph (c)(2) to read as follows:

§ 108.503–4 Project eligibility.

* * * * *

(c) * * *

(2) * * * No such loan shall be approved if the total amount outstanding for the benefit of any small concern from the Business Loan and Investment Fund established under section 4(c) of the Small Business Act exceeds $750,000; provided, however, that loans made for projects which satisfy the criteria of § 108.1(c)(3) shall not exceed $1,000,000.

* * * * *

§ 108.503–8 [Amended]

6. Section 108.503–8(a)(1) is amended by removing the word "leaders" in the first sentence and adding in its place the word "lenders".

7. Section 108.503–8(b)(4) is amended by removing the term "October 1, 1990" and adding in its place the term "October 1, 1994".

8. Section 108.503–9 is amended by revising paragraph (a)(8)(i) to read as follows:

§ 108.503–9 503 Debenture financing.

(a) *Application.* * * *

* * * * *

(8) *503 Loan conditions.* (i) A 503 loan may not exceed the lesser of forty percent of total project cost (as defined in § 108.503–5) plus administrative costs authorized under §§ 108.503–6(a)(1) and 108.503–11 (a) and (b)(2), or an amount which, together with the outstanding balance of all other SBA financings to any one small business concern and its affiliates (as defined in § 121.3(a) of this chapter) under section 7(a) (15 U.S.C. 636(a)), does not exceed $750,000 ($1,000,000 if § 108.1(c)(3) applies): Provided, however, that for good cause shown SBA may authorize a 503 loan up to fifty percent.

* * * * *

§ 108.503–9 [Amended]

9. Section 108.503–9(a)(8)(iii) is amended by removing the words "of $100" in the second sentence and adding in their place the words "or $100".

Catalog of Federal Domestic Assistance 59.036 Certified Development Company Loans (503 Loans); 59.041 Certified Development Company Loans (504 Loans).

Dated: July 3, 1991.

Patricia Saiki,

Administrator.

[FR Doc. 91–19543 Filed 8–16–91; 8:45 am]

BILLING CODE 8025–01–M

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13 CFR Part 121

Small Business Size Regulations; Waiver of the Nonmanufacturer Rule

AGENCY: Small Business Administration.

ACTION: Notice of intent to waive the "Nonmanufacturer Rule" for multiple products.

SUMMARY: This notice advises the public that the Small Business Administration (SBA) is considering a waiver of the "Nonmanufacturer Rule" for the products listed below. These products are being considered for waiver of the Rule because an initial survey could not identify a small business supplying them to the Federal government. The effect of a waiver would be to allow an otherwise qualified regular dealer to supply the product of any domestic manufacturer on a Federal contract set aside for small business or awarded through the SBA 8(a) program.

PSC	*Product Line*
3810	Cranes (greater than 15 ton capacity).

PSC	Product Line
8905	Tuna, canned.
8915	Spinach, canned.
8915	Pineapple slices and tidbits, canned.
8915	Citrus sections, canned.
8915	Pineapple juice.
8925	Granulated sugar.
8925	Brown sugar.
9310	Paper bags (small hardware type).

After performing an initial survey of these product lines, SBA proposes a waiver of the Nonmanufacturer Rule for each product line listed above. The basis for a waiver is that no small business manufacturer or processor is supplying the specific product line to the Federal Government. This notice is to solicit comments of additional information from interested parties.

DATES: Comments must be submitted on or before September 3, 1991. If granted, the waivers will be effective immediately upon publication of the Final Notice.

ADDRESSES: Comments should be addressed to: Mr. Robert J. Moffitt, Chairman, Size Policy Board, Small Business Administration, 409 Third St., SW., Washington, DC 20416.

FOR FURTHER INFORMATION CONTACT: James Fairbairn, Industrial Specialist, phone (202) 205–6465.

SUPPLEMENTARY INFORMATION: On November 15, 1988, Public Law 100–656 incorporated into the Small Business Act the existing SBA policy that recipients of contracts set aside for small business or the SBA 8(a) Program shall provide the products of small business manufacturers or processors. This requirement is commonly known as the "Nonmanufacturer Rule". The SBA regulations imposing this requirement are found in 13 CFR 121.906(b) and 121.1106(b). Section 303(h) of the law provides for waiver of this requirement by SBA for any "class of products" for which there are no small business manufacturers or processors in the Federal market. A class of products is considered to be a particular Product and Service Code (PSC) under the Federal Procurement Data System or an SBA recognized product line within a PSC. To be considered in the Federal market, a small business must have been awarded a contract by the Federal government, or provided the product through a dealer, to supply that particular class of products within the past twelve months from the date of request for waiver. SBA has been requested to issue a waiver for each of the products listed above because of an apparent lack of any small business manufacturers or processors for them within the Federal market. SBA searched its Procurement Automated Source System (PASS) for small business manufacturers or processors that have sold to the Federal government. Because no small business manufacturers or processors were identified within the Federal market by the PASS search, we state by this notice to the public in the **Federal Register** and the Commerce Business Daily our proposed intention to grant waivers for these products unless new information is found.

This notice proposes to waive the Nonmanufacturer Rule for the subject product lines. The public is invited to submit comments or supply information which would identify any small business manufacturers or processors for these product lines.

Dated: August 12, 1991.

Patricia Saiki,

Administrator.

[FR Doc. 91–19714 Filed 8–16–91; 8:45 am]

BILLING CODE 8025–01–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 91–NM–156–AD; Amdt. 39–8006; AD 91–18–03]

Airworthiness Directives; McDonnell Douglas Model DC–9–81, –82, –83, and –87 (MD–81, –82, –83, and –87) Series Airplanes and Model MD–88 Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to McDonnell Douglas Model DC–9–81, –82, –83, and –87 series airplanes and Model MD–88 airplanes, which requires inspection of the rudder power control valve to determine if a lockwire is installed and, if not installed, adjustment of the retention nut and installation of a lockwire. This amendment is prompted by a report that the rudder pedal could not be depressed during landing rollout. This condition, if not corrected, could result in a loss of rudder control.

DATES: Effective September 3, 1991.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the **Federal Register** as of September 3, 1991.

ADDRESSES: The applicable service information may be obtained from McDonnell Douglas Corporation, Post Office Box 1771, Long Beach, California 90801; Attn: Business Unit Manager, Technical Publications & Technical Administrative Support, C1–L5B (54–60). This information may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington; or at the Los Angeles Aircraft Certification Office, 3229 East Spring Street, Long Beach, California; or at the Office of the Federal Register, 1100 L Street NW., room 8401, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Mr. Walter S. Eierman, Aerospace Engineer, ANM–130L, FAA, Transport Airplane Directorate, Los Angeles Aircraft Certification Office, 3229 East Spring Street, Long Beach, California; telephone (213) 988–5336.

SUPPLEMENTARY INFORMATION: One operator of a McDonnell Douglas Model DC–9–83 series airplane reported one instance of a right rudder pedal that could not be depressed during landing rollout. Also, the aircraft logbook entry indicated that the pedal was extremely stiff. Investigation revealed the cause to be a loose retention nut on the rudder power actuator slide assembly due to a missing lockwire. This condition restricted the movement of the slide assembly and caused incorrect porting of hydraulic fluid. If not corrected, this condition could result in loss of rudder control.

The FAA has reviewed and approved McDonnell Douglas MD–80 Alert Service Bulletin A27–317, dated June 17, 1991, which describes procedures for a visual inspection of the retention nut on the rudder power actuator slide assembly for proper installation of a lockwire and, if not installed, adjustment of the retention nut and installation of a lockwire.

Since this situation is likely to exist or develop on other airplanes of the same type design, this AD requires the lockwire inspection and, if necessary, its installation, in accordance with the service bulletin previously described. Additionally, operators are required to submit a report of inspection findings to the FAA.

Since a situation exists that requires immediate adoption of this regulation, it is found that notice and public procedure hereon are impracticable, and good cause exists for making this amendment effective in less than 30 days.

The regulations adopted herein will not have substantial direct effects on the

States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

The FAA has determined that this regulation is an emergency regulation and that it is not considered to be major under Executive Order 12291. It is impracticable for the agency to follow the procedures of Order 12291 with respect to this rule since the rule must be issued immediately to correct an unsafe condition in aircraft. It has been determined further that this action involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). If it is determined that this emergency regulation otherwise would be significant under DOT Regulatory Policies and Procedures, a final regulatory evaluation will be prepared and placed in the Rules Docket (otherwise, an evaluation is not required). A copy of it, if filed, may be obtained from the Rules Docket.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends 14 CFR part 39 of the Federal Aviation Regulations as follows:

PART 39—[AMENDED]

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

91-18-03. McDonnell Douglas: Amendment 39-8006. Docket No. 91-NM-156-AD.

Applicability: McDonnell Douglas Model DC-9-81, -82, -83, and -87 (MD-81, -82, -83, and -87) series airplanes and Model MD-88 airplanes; serial numbers as listed in McDonnell Douglas MD-80 Alert Service Bulletin A27-317, dated June 17, 1991; certificated in any category.

Compliance: Required as indicated, unless previously accomplished.

To prevent loss of rudder control, accomplish the following:

(a) Within 60 days after the effective date of this AD, inspect the retention nut on the rudder power actuator slide assembly in accordance with the Accomplishment Instructions of McDonnell Douglas MD-80 Alert Service Bulletin A27-317, dated June 17, 1991, to determine if a lockwire is installed.

(1) If a lockwire is installed, no further action is required.

(2) If a lockwire is not installed, prior to further flight, adjust the retention nut, install a lockwire, and functionally check the rudder power actuator in accordance with the Accomplishment Instructions of McDonnell Douglas MD-80 Alert Service Bulletin A27-317, dated June 17, 1991.

(b) Within 30 days after the inspection required by paragraph (a) of this AD, submit a report of any inspection findings that indicate a missing lockwire to the Manager, Los Angeles Aircraft Certification Office, 3229 East Spring Street, Long Beach, California 90806-2425. Information collection requirements contained in this regulation have been approved by the Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act of 1980 (Pub. L. 96-511) and have been assigned OMB Control Number 2120-0056.

(c) An alternative method of compliance or adjustment of the compliance time, which provides an acceptable level of safety, may be used when approved by the Manager, Los Angeles Aircraft Certification Office (ACO), FAA, Transport Airplane Directorate.

Note: The request should be forwarded through an FAA Principal Maintenance Inspector, who may concur or comment and then send it to the Manager, Los Angeles ACO.

(d) Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base in order to comply with the requirements of this AD.

(e) The inspection and replacement requirements shall be done in accordance with McDonnell Douglas MD-80 Alert Service Bulletin A27-317, dated June 17, 1991. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from McDonnell Douglas Corporation, Post Office Box 1771, Long Beach, California 90801; Attn: Business Unit Manager, Technical Publications & Technical Administrative Support, C1-L5B (54-60). Copies may be inspected at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington; or at the Los Angeles Aircraft Certification Office, 3229 East Spring Street, Long Beach, California, or at the Office of the Federal Register, 1100 L Street NW., room 8401, Washington, DC.

This amendment (39-8006, AD 91-18-03) becomes effective on September 3, 1991.

Issued in Renton, Washington, on August 6, 1991.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 91-19683 Filed 8-16-91; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 71

[Airspace Docket No. 91-AEA-07]

Revocation of Transition Area; Riverhead, NY

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This notice revokes the 1,200 foot Transition Area established at Riverhead, NY. A portion of this area is already contained within the New York State 1,200 foot Transition Area and the remainder is not needed by the FAA to contain aircraft operating under instrument flight rules in controlled airspace. This action returns that amount of controlled airspace not needed by the FAA, back to the public.

EFFECTIVE DATE: 0901 u.t.c. September 19, 1991.

FOR FURTHER INFORMATION CONTACT: Mr. Curtis L. Brewington, Airspace Specialist, System Management Branch, AEA-530, F.A.A. Eastern Region, Federal Building # 111, John F. Kennedy International Airport, Jamaica, New York 11430; telephone: (718) 917-0857.

SUPPLEMENTARY INFORMATION:

History

On April 26, 1991, the FAA proposed to amend part 71 of the Federal Aviation Regulations (14 CFR part 71) to revoke the 1,200 foot Transition Area at Riverhead, NY (56 FR 23254). A portion of this area is already contained within the New York State 1,200 foot Transition Area. Additionally, this area is not required to contain aircraft operating in controlled airspace under instrument flight rules. The proposed action would return that amount of controlled airspace not needed by the FAA, back to the public.

Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments on the proposal were received. Except for editorial changes, this amendment is the same as that proposed in the notice. Section 71.181 of part 71 of the Federal Aviation Regulations was republished in FAA Handbook 7400.6G, September 4, 1990.

The Rule

This amendment to part 71 of the Federal Aviation Regulations revokes the 1,200 foot Transition Area established at Riverhead, NY. Portions of this transition area are contained in the New York State Transition Area. Additionally, controlled airspace not

needed by the FAA is being returned back to the public.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, this regulation: (1) Is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Aviation safety, Transition areas.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, part 71 of the Federal Aviation Regulations (14 CFR part 71) is amended as follows:

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

1. The authority citation for part 71 continues to read as follows:

Authority: 49 U.S.C. App. 1348(a), 1354(a), 1510; Executive Order 10854; 49 U.S.C. 106(g) (Revised Pub. L. 97–449, January 12, 1983); 14 CFR 11.69.

§ 71.181 [Amended]

2. Section 71.181 is amended as follows:

Riverhead, NY [Removed]

Issued in Jamaica, New York, on August 1, 1991.

Gary W. Tucker,

Manager, Air Traffic Division.

[FR Doc. 91–19732 Filed 8–16–91; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 71

[Airspace Docket No. 91–AEA–06]

Revocation of Transition Area; Sutton, WV

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This notice revokes the 700 foot Transition Area established at Sutton, WV, due to the non-availability of Standard Instrument Approach Procedures (SIAPS) to the Braxton County Airport, Sutton, WV. This action returns that amount of airspace not needed by the FAA to contain aircraft operating under instrument flight rules, back to the public.

EFFECTIVE DATE: 0901 u.t.c. September 19, 1991.

FOR FURTHER INFORMATION CONTACT: Mr. Curtis L. Brewington, Airspace Specialist, System Management Branch, AEA–530, F.A.A. Eastern Region, Federal Building #111, John F. Kennedy International Airport, Jamaica, New York 11430; telephone: (718) 917–0857.

SUPPLEMENTARY INFORMATION:

History

On May 16, 1991, the FAA proposed to amend part 71 of the Federal Aviation Regulations (14 CFR part 71) to revoke the 700 foot Transition Area established at Sutton, WV, due to the non-availability of SIAPs to the Braxton County Airport, Sutton, WV (56 FR 26045). The proposed action would return that amount of airspace not needed by the FAA, back to the public.

Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received. Except for editorial changes, this amendment is the same as that proposed in the notice. Section 71.181 of part 71 of the Federal Aviation Regulations was republished in FAA Handbook 7400.6G, September 4, 1990.

The Rule

This amendment to part 71 of the Federal Aviation Regulations revokes the 700 foot Transition Area established at Sutton, WV, due to the non-availability of SIAPs to the Braxton County Airport, Sutton WV.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, this regulation: (1) Is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Aviation safety, Transition areas.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, part 71 of the Federal Aviation Regulations (14 CFR part 71) is amended as follows:

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

1. The authority citation for part 71 continues to read as follows:

Authority: 49 U.S.C. app. 1348(a), 1354(a), 1510; Executive Order 10854; 49 U.S.C. 106(g) (Revised Pub. L. 97–449, January 12, 1983); 14 CFR 11.69.

§ 71.181 [Amended]

2. Section 71.181 is amended as follows:

Sutton, WV [Removed]

Issued in Jamaica, New York, on August 1, 1991.

Gary W. Tucker,

Manager, Air Traffic Division.

[FR Doc. 91–19729 Filed 8–16–91; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 97

[Docket No. 26616; Amdt. No. 1458]

Standard Instrument Approach Procedures; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs) for operations at certain airports. These regulatory actions are needed because of the adoption of new or revised criteria, or because of changes occurring in the National Airspace System, such as the commissioning of new navigational facilities, addition of new obstacles, or changes in air traffic requirements. These changes are designed to provide safe and efficient use of the navigable airspace and to promote safe flight operations under instrument flight rules at the affected airports.

DATES: Effective: An effective date for each SIAP is specified in the amendatory provisions.

Incorporation by reference—approved by the Director of the Federal Register

on December 31, 1980, and reapproved as of January 1, 1982.

ADDRESSES: Availability of matters incorporated by reference in the amendment is as follows:

For Examination—

1. FAA Rules Docket, FAA Headquarters Building, 800 Independence Avenue, SW., Washington, DC 20591;

2. The FAA Regional Office of the region in which the affected airport is located; or

3. The Flight Inspection Field Office which originated the SIAP.

For Purchase—

Individual SIAP copies may be obtained from:

1. FAA Public Inquiry Center (APA–200), FAA Headquarters Building, 800 Independence Avenue, SW., Washington, DC 20591; or

2. The FAA Regional Office of the region in which the affected airport is located.

By Subscription—

Copies of all SIAPs, mailed once every 2 weeks, are for sale by the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402.

FOR FURTHER INFORMATION CONTACT: Paul J. Best, Flight Procedures Standards Branch (AFS–420), Technical Programs Division, Flight Standards Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 267–8277.

SUPPLEMENTARY INFORMATION: This amendment to part 97 of the Federal Aviation Regulations (14 CFR part 97) establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs). The complete regulatory description of each SIAP is contained in official FAA form documents which are incorporated by reference in this amendment under 5 U.S.C. 552(a), 1 CFR part 51, and § 97.20 of the Federal Aviation Regulations (FAR). The applicable FAA Forms are identified as FAA Forms 8260–3, 8260–4, and 8260–5. Materials incorporated by reference are available for examination or purchase as stated above.

The large number of SIAPs, their complex nature, and the need for a special format make their verbatim publication in the **Federal Register** expensive and impractical. Further, airmen do not use the regulatory text of the SIAPs, but refer to their graphic depiction on charts printed by publishers of aeronautical materials. Thus, the advantages of incorporation by reference are realized and publication of the complete description of each SIAP contained in FAA form documents is unnecessary. The provisions of this amendment state the affected CFR (and FAR) sections, with the types and effective dates of the SIAPs. This amendment also identifies the airport, its location, the procedure identification and the amendment number.

This amendment to part 97 is effective on the date of publication and contains separate SIAPs which have compliance dates stated as effective dates based on related changes in the National Airspace System or the application of new or revised criteria. Some SIAP amendments may have been previously issued by the FAA in a National Flight Data Center (FDC) Notice to Airmen (NOTAM) as an emergency action of immediate flight safety relating directly to published aeronautical charts. The circumstances which created the need for some SIAP amendments may require making them effective in less than 30 days. For the remaining SIAPs, an effective date at least 30 days after publication is provided.

Further, the SIAPs contained in this amendment are based on the criteria contained in the U.S. Standard for Terminal Instrument Approach Procedures (TERPs). In developing these SIAPs, the TERPs criteria were applied to the conditions existing or anticipated at the affected airports. Because of the close and immediate relationship between these SIAPs and safety in air commerce, I find that notice and public procedure before adopting these SIAPs are unnecessary, impracticable, and contrary to the public interest and, where applicable, that good cause exists for making some SIAPs effective in less than 30 days.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. For the same reason, the FAA certifies that this amendment will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 97

Approaches, Standard instrument, Incorporation by reference.

Issued in Washington, DC on August 2, 1990.

Thomas C. Accardi,

Director, Flight Standards Service.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, part 97 of the Federal Aviation Regulations (14 CFR part 97) is amended by establishing, amending, suspending, or revoking Standard Instrument Approach Procedures, effective at 0901 G.M.T. on the dates specified, as follows:

1. The authority citation for part 97 continues to read as follows:

Authority: 49 U.S.C. 1348, 1354(a), 1421 and 1510; 49 U.S.C. 106(g) (Revised Pub. L. 97–449, January 12, 1983); and 14 CFR 11.49(b)(2).

2. Part 97 is amended to read as follows:

By amending: § 97.23 VOR, VOR/DME, VOR or TACAN, and VOR/DME or TACAN; § 97.25 LOC, LOC/DME, LDA, LDA/DME, SDF, SDF/DME; § 97.27 NDB, NDB/DME; § 97.29 ILS, ILS/DME, ISMLS, MLS, MLS/DME, MLS/RNAV; § 97.31 RADAR SIAPs; § 97.33 RNAV SIAPs; and § 97.35 COPTER SIAPs, identified as follows:

** * * September 19, 1991*

Windsor Locks, CT—Bradley Intl, VOR/DME RWY 6, Orig.

Weno Island, Federated States of Micronesia, Chuuk Intl, NDB/DME RWY 22, Amdt. 2, CANCELLED

Fort Wayne, IN—Fort Wayne Muni (Baer Field), ILS RWY 5, Amdt. 14

Flemingsburg, KY—Fleming-Mason, NDB RWY 25, Amdt. 6

Harbor Springs, MI—Harbor Springs, VOR–A, Orig.

Austin, MN—Austin Muni, VOR RWY 18, Amdt. 13, CANCELLED

Austin, MN—Austin Muni, VOR RWY 36, Amdt. 13, CANCELLED

Austin, MN—Austin Muni, VOR RWY 18, Orig.

Austin, MN—Austin Muni, VOR RWY 36, Orig.

Yazoo City, MS—Yazoo County, VOR/DME RWY 17, Orig.

Yazoo City, MS—Yazoo County, VOR/DME RWY 35, Orig.

Manchester, NH—Manchester/Grenier Indus Arpk, VOR/DME–3, RWY 17, Orig.

North Wilkesboro, NC—Wilkes County, LOC RWY 1, Orig.

North Wilkesboro, NC—Wilkes County, NDB RWY 1, Amdt. 1

Hillsboro, OH—Highland County, NDB RWY 23, Amdt. 4

Portsmouth, OH—Greater Portsmouth Regional, VOR/DME–A, Amdt. 4

Portsmouth, OH—Greater Portsmouth Regional, NDB RWY 36, Amdt. 2

Portsmouth, OH—Greater Portsmouth Regional, VOR/DME RNAV RWY 18, Amdt. 4

Urbana, OH—Grimes Field, VOR–A, Amdt. 4

West Union, OH—Alexander Salamon, NDB RWY 23, Amdt. 3

Youngstown, OH—Youngstown Elser Metro, VOR–C, Orig.
Medford, OR—Medford-Jackson County, LOC/DME BC–B, Amdt. 5
Pendleton, OR—Pendleton Muni, NDB–A, Amdt. 7
Pendleton, OR—Pendleton Muni, ILS RWY 25, Amdt. 23
Harrisburg, PA—Harrisburg Intl, ILS RWY 13, Orig.
Harrisburg, PA—Harrisburg Intl, ILS RWY 31, Orig.
Middletown, PA—Harrisburg Intl, ILS RWY 13, Amdt. 9, CANCELLED
Middletown, PA—Harrisburg Intl, ILS RWY 31, Amdt. 4, CANCELLED
Lubbock, TX—Lubbock Intl, VOR–A, Amdt. 6
Lubbock, TX—Lubbock Intl, VOR/DME or TACAN RWY 26, Amdt. 9
Lubbock, TX—Lubbock Intl, LOC BC RWY 35L, Amdt. 16
Lubbock, TX—Lubbock Intl, NDB RWY 8, Amdt. 1
Lubbock, TX—Lubbock Intl, NDB RWY 17R, Amdt. 15
Lubbock, TX—Lubbock Intl, NDB RWY 26, Amdt. 2
Lubbock, TX—Lubbock Intl, ILS RWY 17R, Amdt. 16
Lubbock, TX—Lubbock Intl, ILS RWY 26, Amdt. 2
Lubbock, TX—Lubbock Intl, RADAR–1, Amdt. 7
Lubbock, TX—Lubbock Intl, VOR/DME RNAV RWY 8, Amdt. 2
Burlington/Mount Vernon, WA—Skagit Regional/Bay View, NDB RWY 10, Orig.

** * * Effective August 1, 1991*

Madison, CT—Griswold, VOR–A, Amdt. 6

** * * Effective July 31, 1991*

Anniston, AL—Anniston Metropolitan, NDB RWY 5, Amdt. 1
Decatur, AL—Pryor Field, VOR RWY 18, Amdt. 11
Troy, AL—Troy Muni, NDB RWY 7, Amdt. 10
Troy, AL—Troy Muni, ILS RWY 7, Amdt. 7
Troy, AL—Troy Muni, RADAR–1, Amdt. 6

** * * Effective July 25, 1991*

Kenai, AK—Kenai Muni, VOR RWY 19, Amdt. 15
Bloomington, IN—Monroe County, VOR/DME RWY 35, Amdt. 14
Conrad, MT—Conrad, NDB RWY 23, Amdt. 4
Shelby, MT—Shelby, NDB RWY 23, Amdt. 5

The FAA published an Amendment in Docket No. 26596, Amdt. No. 1456 to part 97 of the Federal Aviation Regulations (VOL 56, NO. 137 Page 32503; dated Wednesday, July 17, 1991) under § 97.29 effective September 19, 1991, which is hereby amended as follows:

New York, NY—John F. Kennedy Intl, MLS C/P RWY, 13R, Orig. is hereby rescinded. New procedure to follow.

[FR Doc. 91–19731 Filed 8–16–91; 8:45 am]
BILLING CODE 4910–13–M

Office of Commercial Space Transportation

14 CFR Parts 413 and 415

[OST Docket No. 43810; Notice 91–13]

RIN 2105–AB77

Commercial Space Transportation: User Fees

AGENCY: Office of the Secretary, Office of Commercial Space Transportation, DOT.

ACTION: Final rule.

SUMMARY: The Commercial Space Launch Act of 1984, as amended, grants the Department of Transportation authority to license and regulate commercial launch activities. Pursuant to the Independent Offices Appropriations Act of 1952, as amended, the Department is authorized to prescribe regulations establishing charges or fees for services provided to any person (other than U.S. Government personnel on official business) in carrying out the Department's responsibilities under the Commercial Space Launch Act. The purpose of this final rule is to establish a schedule of fees for certain activities involved in reviewing a license application and issuing and administering a license authorizing the conduct of commercial launch activities. The fee schedule includes a fixed license fee of $2,500 per year, a variable per-launch fee of $2.50 per pound of delivery capability of the launch vehicle to low earth orbit for an orbital launch, and a fixed per-launch fee of $1,000 for a suborbital launch.

DATES: This rules becomes effective September 18, 1991.

FOR FURTHER INFORMATION CONTACT: Elaine Orfanos David, Office of the Assistant General Counsel for Regulation and Enforcement, U.S. Department of Transportation, 400 Seventh Street SW., Washington, DC 20590, (202) 366–9305.

SUPPLEMENTARY INFORMATION:

Introduction and Background

Pursuant to Executive Order No. 12465, issued in 1984, the Department of Transportation (DOT) was designated lead agency for commercial space launch activities. The Commercial Space Launch Act of 1984, as amended (Pub. L. 98–575 and 100–657), 49 U.S.C. App. 2601–2623 (CSLA), granted the Secretary of Transportation the authority to license and regulate United States commercial space launch activities. Among the stated purposes of CSLA are protection of public health and safety, safety of property, and national security and foreign policy interests of the United States. Moreover, in carrying out the CSLA, the Secretary is required to encourage, promote, and facilitate development of commercial space transportation capabilities that can compete internationally.

The Secretary's responsibilities under the CSLA are implemented by DOT's Office of Commercial Space Transportation (OCST), which has three divisions: The Industry Policy and Planning Division, the Program Affairs Division, and the Licensing Programs Division. The Industry Policy and Planning Division provides research and analysis in support of DOT and other federal policy-making entities. The Program Affairs Division coordinates OCST activities and engages in industry and public outreach. Licensing and regulatory activities are the responsibility of the Licensing Programs Division. The licensing program covers launches and launch site operations. Licenses have been issued to authorize one or more specific launches or a program of launches, and associated launch site activities. OCST also expects to implement required licensing for commercial launch sites and other on-going launch site activities. However, this final rule applies only to license applications and licenses involving launches.

On February 29, 1991, OCST published a Notice of Proposed Rulemaking (NPRM) on Commercial Space Transportation User Fees (**Federal Register**, Vol. 56, No. 40, at pp. 8301–8306). In the NPRM, the Office reviewed the sources of authority and guidance for establishing charges for government services generally, the factors that OCST considered in developing its proposed fee schedule, the basis upon which amounts of fees would be set and alternative formulations, and the economic impact of such measures. The public was invited to submit comments on the NPRM for a period of thirty (30) days ending April 1, 1991. In addition, since publication of the NPRM and close of the comment period, the Office completed a comprehensive report requested by the House Committee on Appropriations on the potential for cost recovery of OCST's licensing and related activities through a user fee program. The report addresses the ability of the industry to pay such fees, a proposed user fee structure and an assessment of the feasibility of recovering all OCST costs through user fees. Both the analysis reflected in the report to Congress and all comments submitted on the NPRM were fully

considered in developing this final rule. No changes have been made to the fee schedule proposed in the NPRM.

Cost recovery through OCST's user fee program will be limited to a portion of the total cost of OCST's licensing activities. This is consistent with national policy guidance reflected in the CSLA and articulated in the National Space Policy. Government space policy links a robust commercial launch sector with advancing U.S. national security and foreign policy interests, enhancing opportunities for economic growth and maintaining international leadership in space. Moreover, federal agencies are directed to encourage, promote and facilitate the development of a commercial space transportation industry, and to avoid taking action that could deter or preclude such activities. Indeed, the U.S. government has placed special emphasis on space policy and programs and has established specific decision-making mechanisms in the Executive Office of the President to ensure furtherance of national space objectives.

The U.S. commercial space transportation industry has made great progress in the last several years. It is, however, still an emerging industry carrying out high-risk operations in the context of a very competitive international market. Certain elements of the industry are also on the cutting edge of space transportation technological development. Additional operational costs for these firms, whether or not passed on to other parties, could have serious adverse impacts on their ability to survive.

The OCST user fee program reflects these concerns. Thus, consistent with Congressional action in the FY91 DOT Appropriations Act, user fees have been set at a level to recover on an average annual basis a total of $300,000, representing a portion of OCST's costs for personnel, contracts, and travel associated with review of license applications and issuance and administration of licenses.

The regulations published today establish a two-tiered schedule of user fees directed at identifiable OCST program beneficiaries to compensate the Government for activities involved in the review of a license application and issuance and administration of a license authorizing a private party to conduct commercial space transportation operations.

These activities include routine administration and maintenance of a license application and the license as issued; a mission review and a safety review associated with evaluation of a license application; development of financial responsibility requirements, including determination of maximum probable loss and reciprocal waiver of claims agreements, and other conditions of a license; and monitoring compliance with licensing requirements. Mission review, safety review, and the establishment of financial responsibility requirements are prerequisites for the issuance of a license authorizing commercial launch activities. Demonstration of compliance with financial responsibility and other requirements of the license is a condition of the licensee's authorization to commence and pursue licensed activities. The identifiable beneficiaries of these OCST program activities are considered to be firms in the commercial space transportation industry that apply for and/or receive "permission to operate" from the government, required by the CSLA and necessary because commercial space transportation activities impose external costs on the general public.

The first tier of the user fee schedule involves a license application fee and an annual license renewal fee; the second tier involves a per-launch fee that varies for orbital launches and is fixed for suborbital launches. The license application and annual license renewal fees generally cover the routine costs of reviewing a license application and issuing and administering a license. These costs are generally constant and do not vary significantly by type of vehicle or launch site. The per-launch fee for orbital launches is intended to cover license-specific costs that vary by launch vehicle, launch site, flight plan, etc., and is based on a parameter that correlates closely with the benefit a licensee receives from its authorization to conduct the launch. Because of the relatively modest value received for any one launch activity, and the lack of correlation of specific performance parameters, the per-launch fee for suborbital launches is established at a fixed amount.

The two-tiered approach requires that a launch company pay only a relatively small fee to apply for a license and, if necessary, to renew the license on an annual basis. Once a license is issued, the balance of the fee is assessed no later than thirty days after launch which correlates generally with the time that costs are incurred by OCST for compliance monitoring activates and revenue accrues to the licensee.

The license application fee of $2,500 per license application is payable at the time of application. The application fee is required regardless of whether a license is granted or denied. To maintain a license in effect beyond one year, a renewal fee of $2,500 is payable on or before the anniversary date of license issuance. Both the license application and the renewal fees are nonrefundable.

The per-launch fee structure for an orbital launch is based on maximum payload lift capability of the launch vehicle to low earth orbit (28.5 degree inclination, nominal 150 mile circular orbit) launched from the Eastern Space and Missile Center, Florida. The fee involves a per-launch charge of $2.50 per pound of payload lift capability. The per-launch charge for a suborbital launch is a flat fee of $1,000.

Economic Impact of OCST User Fees

The U.S. commercial space launch industry is comprised of a small but growing number of firms offering a broad spectrum of different launch capabilities at various prices. User fees will be levied directly on the launch companies, which presumably will absorb the added costs (in part or in full), or recover these costs from the payload owner. The extent to which a launch company can pass through user fees will depend on the level of competition for its services and its operating profit margins. In general, the user fees established by this rule represent a very small fraction of the total revenues derived from a launch operation and are not expected to have a negative impact on the rate of growth of the commercial space launch industry or the financial viability of any of the existing firms in the industry.

In support of this rule, OCST has prepared a "Regulatory Evaluation of User Fees." The regulatory evaluation subdivides commercial space launch vehicles into three groups: (1) Large vehicles defined as having a Low Earth Orbit (LEO) delivery capacity that is greater than 6,500 pounds; (2) Small vehicles defined as having a LEO delivery capacity that is less than or equal to 6,500 pounds; and (3) Suborbital vehicles. In order to provide a hypothetical projection of revenues from user fees, the regulatory evaluation assumes that, through 1995, there will be eight large vehicle launches annually, ten small vehicle launches annually, and six suborbital launches annually. OCST believes there are realistic scenarios where annual launch levels may exceed these projections; however, for the purposes of establishing a hypothetical reference point for the regulatory evaluation, these launch levels were selected. The economic analysis estimates that the average annual per-launch revenues (excluding license application and renewal fees) from the preferred user fee option would be

$351,000. The average annual per-launch revenues (excluding license application and renewal fees) from the other options would range between $293,000 and $397,000.

Comments on the NPRM

The Office received four comments on its NPRM. Of this total, two comments were submitted by established U.S. commercial launch providers that have already carried out orbital launches pursuant to OCST-issued licenses, and are currently authorized to conduct additional launches in the future. One comment was submitted by a company that plans to launch reusable single-stage-to-orbit vehicles. One comment was submitted by the Chairman of the Subcommittee on Space of the House Committee on Science, Space, and Technology.

User Fees in Principle

All commenters expressed opposition in principle to user fees for licensing of commercial launch activities. One of the commenting licensed launch providers specifically observed that a grant of permission to operate in not a sufficiently "compelling" benefit conferred by the government to justify imposition of these user fees, especially in comparison to the benefits accruing to the nation from commercial launch activities.

The Office wholeheartedly agrees that a robust, internationally competitive commercial space transportation sector is vitally important to U.S. national interests, and that the nation derives many benefits from industry's commitment of resources and assumption of risks in this area. Indeed, for these very reasons, DOT is charged with the responsibility of carrying out its statutory licensing authority in a manner that encourages, facilitates, and promotes U.S. commercial space launch activities. As indicated above, these concerns were factored into OCST's determination of the appropriate scope and scale of the user fee program.

That said, the Office notes that Administration policy encourages user fees for government-provided goods or services that confer benefits on identifiable recipients over and above those benefits received by the general public. Moreover, for purposes of assessing user fees, it is a well-established principle that permission to operate or to conduct business is considered a government-conferred benefit. The Office of Management and Budget (OMB) Circular A–25, User Charges (52 FR 24890, 7/1/87), for example, which serves as the Executive Branch directive for implementing the Independent Offices Appropriations Act of 1952, as amended (31 U.S.C. 9701) (IOAA), specifically identifies a license or permit as a benefit conferred by the government for which fees may be charged to recover the government's costs of providing services necessary to issue the license. (For a more detailed discussion, please refer to the NPRM and OCST's Regulatory Evaluation of User Fees.)

Thus, government agencies now charge user fees for licensing a large number and wide variety of activities with actual or potential impacts on public health and safety, safety of property, national security, foreign policy, and/or compliance with international obligations, including: Construction and operation of nuclear and other power plants; gas pipeline safety; transportation of passengers and cargo; services provided by the Federal Government to the aviation industry; and pesticide tolerance levels. A number of agencies—including some within the Department of Transportation—are also in the process of instituting comparable user fee programs.

Moreover, as noted in the NPRM, the House and Senate Appropriations Committees have explicitly signalled their interest in charging fees to recover costs of implementing OCST's regulatory program. The Report of the Conference Committee on the DOT Appropriations Act for fiscal year 1991 directed "that a viable user fee program should be established without delay" for OCST's regulatory services, and the Act authorized up to $300,000 "received from user fees established for regulatory services" to be credited to OCST's Operations and Research appropriation.

Competitiveness

All commenters expressed concern that user fees would adversely affect the competitive position of the U.S. commercial space transportation industry relative to foreign launch providers. The two commenting licensed launch companies specifically suggested that the parties to ongoing trade negotiations between the U.S. Trade Representatives (USTR) and the European Space Agency (ESA) to achieve a "level playing field" for competitors in the international launch services market should reach an agreement on user fees before they are imposed unilaterally on U.S. commercial launch providers.

The Office is fully mindful of the importance of U.S. industry competitiveness in the world market for launches of commercial payloads, and the Department is an active member of the USTR-led delegation to the ESA talks. It has become evident in these negotiations that there is no parallel in the European context to fees to cover costs of processing or administering regulatory authorizations. USTR has been advised of these comments, and the issue will be pursued further in developing rules of the road for international competition in the commercial launch services market. However, the Office does not believe that there is a sufficiently compelling need to delay these regulations pending agreement on user fees in the talks with the Europeans.

OCST Licensing Activities

Two commenting launch firms expressed doubts about the value of the services rendered by OCST in implementing its regulatory responsibilities. In this regard, one commenter noted that it launches the same vehicles for both commercial customers and the U.S. Air Force from the same Air Force launch range, and questioned specifically what additional oversight DOT provides to ensure public safety for the company's nongovernmental activities.

While a launch company may indeed launch the same vehicle from the same launch range, there is a fundamental difference between the operations that it performs to support an Air Force (or other government agency) launch and to carry out a licensed commercial launch. More importantly, there is a significant difference in that company's ultimate accountability for the safe conduct of the launch activities and its financial responsibility for the consequences of such activities. As a result, OCST's oversight is not "additional" to that of the government launch range operator; rather, it serves a different purpose.

By way of background, the Federal Government plays two distinct roles related to safety in the context of commercial launch activities. DOT is responsible for ensuring, through its licensing process, that commercial launch activities are not hazardous to public health and safety or safety or property. The Department's exclusive and continuing safety authority extends to such activities regardless of whether they are staged at private or government launch facilities.

In addition, the Federal Government, through the Department of Defense and the National Aeronautics and Space Administration, also functions as operator of a number of launch ranges and related launch facilities. Numerous safety-related operations are conducted at these ranges. Some of these

operations, such as those pertaining to flight safety, can be provided under contract as a service to commercial launch firms. Range operators also conduct safety-related operations that derive from their responsibility to protect government property and personnel. These include safety inspections and monitoring, as well as certain other safety functions performed on a mandatory basis for all range users, whether private or government.

Before OCST can issue a launch license, it must review an applicant's proposed safety operations. In order to secure approval for its safety operations, an applicant must demonstrate that it can marshall the resources needed to prepare and launch a vehicle safely. These resources can be assembled in a number of ways: An applicant may choose to conduct all safety operations itself; it may rely on government-provided property and services to support its safety operations; or it may perform safety operations through some arrangement whereby private and government resources are combined. In any case, the company must demonstrate to OCST that all aspects of its proposed launch activities will be conducted safely.

When a launch company provides hardware and/or services to support a government launch, there is involved a government agency (apart from the range operator) that has assumed responsibility for the consequences (financial and otherwise) of such activities, and is therefore directing or controlling the launch. In contrast, when launch services are provided to carry out a commercial launch subject to the licensing requirement, it is the launch company as the identified manager of its operations that is held ultimately accountable for protecting public safety, safety of property and other important national interests put at risk by these activities, and made financially responsible for any harm resulting therefrom. This is the case regardless of how the company elects to conduct its safety operations.

One of the fundamental legislative objectives of CSLA was to establish a regulatory regime that would permit the private sector to engage in commercial launch activities without jeopardizing public health and safety, safety of property, as well as U.S. national security and foreign policy interests. The license issued by DOT represents the U.S. Government's assurance to the public that the licensee has demonstrated the capability to carry out commercial launch activities safely and responsibly. The licensee is thus identified as the party ultimately held accountable for the protection of public safety and financially responsible for the consequences of such activities.

User Fees for Orbital Launches

The three commenting launch firms objected to the formula proposed to calculate the per-launch fee for orbital launches, i.e., payload lift capability to low earth orbit from the Eastern Space and Missile Center. Their concern is that the formula does not reflect actual costs of OCST services for a particular mission. This is especially the case, the commenters noted, where successive launches involving identical elements do not require duplicative assessments of public safety factors for each launch. In contrast, launches involving vehicle systems, launch sites, payloads or flight profiles that are used for the first time or are otherwise novel necessarily require more regulatory evaluation and oversight. Two of these commenters also asserted that OCST's user fee formula contravenes the CSLA which provides that government launch property and launch services acquired by the private sector should be based on direct or "additive" costs "unambiguously associated with a commercial launch effort."

The Office does not believe that establishment of user fees pursuant to the IOAA is subject to CSLA provisions that address private sector acquisition of government launch services. Section 15 of the CSLA concerns, in pertinent part, government launch services that are not needed for public use. Under section 15(b)(1), when the private sector acquires launch services from the government, the amount to be paid the agency providing the services must be equal to its direct costs resulting from the acquisition. "Direct costs" means "the actual costs that can be unambiguously associated with a commercial launch effort, and would not be borne by the United States Government in the absence of a commercial launch effort." However, "launch services" are defined in section 4(4) of the CSLA as "those activities involved in the preparation of a launch vehicle and its payload for launch and the conduct of a launch." There is, moreover, nothing in the statute or the legislative history, or in the implementation of the CSLA, to suggest that section 15 should be interpreted to include OCST's licensing activities within the meaning of the term "launch services" for pricing purposes.

Aside from the CSLA, as discussed in the NPRM, clearly one way of implementing a user fee regime to recover costs of OCST licensing activities would be to track the costs that OCST incurs in reviewing a license application and issuing and maintaining in force each license; and to charge each licensee an amount equal to such cost. However, the disadvantages of such a tracking system are outweighed by the advantages obtained in relying on the selected parameter for the orbital launch fee. As more fully discussed in the NPRM, the costs of developing, establishing, and maintaining a complex cost accounting system would result in a higher fee that would be passed on to launch license applicants and licensees; a cost-accounting approach to user fee would unfairly burden license applicants proposing innovative technology, a new launch site, or other factor affecting public safety, or responding to a new OCST license format; and a cost-accounting approach would not correlate user fees with benefits conferred on a licensee through the licensing process.

One commenter stated that it plans several launches from the Western Space and Missile Center. Noting that the per-launch fee is based on payload lift capability to low earth orbit from the Eastern Space and Missile Center, the commenter recommended that the fee should be based on payload lift capability from the actual launch location.

The Office believes that it is preferable to normalize the payload lift capability of each vehicle to one launch site and to one orbital destination. Even though each vehicle is launched from a particular location and is flown on one of a number of different launch profiles, this approach provides a comparative standard for all launch vehicles that is necessary to fix fees equitably.

In considering the comments on the overall issue of how the launch fee should be calculated and assessed, it was instructive to note that one commenter stated that the user fee program would be inequitable to established launch providers using large, existing, expendable vehicles, while another commenter stated that the user fee program would be inequitable to new entrants using small, innovative, reusable vehicles. The Office continues to believe that basing user fees on payload lift capability to low earth orbit would equitably balance the Nation's interest in small versus large launch vehicles and in new versus established providers.

Supporting Analyses

One of the commenters contended that this final rule is a major rule under Executive Order No. 12291 because the

user fee schedule is biased against an innovative reusable vehicle system that is designed to lower costs of access to space. This commenter requested, for that reason, that OCST prepare a regulatory flexibility analysis and remove the entire fee structure.

The commenter represents a firm that claims to be developing a reusable single-stage-to-orbit vehicle system that would conduct orbital launches on a weekly basis with a payload lift capability of 5,000 pounds per launch. Although the firm has not yet demonstrated a proven operational capability, the underlying concept, characterized as innovative, is to operate "frequently and efficiently, in a manner similar to aircraft," thereby lowering launch costs. The commenter argues that OCST's user fees will add to the cost of its orbital launches, reduce profits, discourage innovation and inhibit investment in innovative launchers.

As indicated in this final rule and more fully explained in the preamble to the NPRM, the user fee structure constitutes an appropriate requirement to recover a portion of OCST's costs of evaluating license applications and administering licenses authorizing commercial launch activities. Moreover, for the following reasons, the Office maintains that this final rule is not a major rule under Executive Order No. 12291 and that preparation of a regulatory flexibility analysis is not required.

According to Executive Order No. 12291, a major rule is a regulation that is likely to result in:

(1) An annual effect on the economy of $100 million or more; or

(2) A major increase in costs or prices for consumers; individual industries; federal, state, or local government agencies; or geographic regions; or

(3) Significant adverse effects on competition, employment, investment, productivity, or innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The thrust of the commenter's concern on this issue appears to be directed toward the cost of launch services to the end user, and the impact on innovation. These are factors reflected in the second and third criteria, respectively, set forth above.

While the Office welcomes efforts to reduce cost of access to space, a "major rule" determination must be analytically based. Accordingly, the Regulatory Evaluation concluded that relative to the current or anticipated costs of producing and launching a payload, the user fees established by this rule will not have a seriously adverse impact on the costs of any individual launcher or on those of the commercial launch industry. This is the case whether the user fees are absorbed by the launch provider or passed on to the customer. Moreover, contrary to the commenter's assertion, the rule is structured deliberately to foster innovation by charging relatively less for those OCST activities involved in reviewing a license application and issuing and administering a license relating to the use of an innovative technology, a new launch site, or a different flight profile.

The Regulatory Flexibility Act provides that an agency proposing to issue a rule shall prepare an initial and final regulatory flexibility analysis in conjunction with publication, respectively, of its notice of proposed rulemaking and final rule. The purpose of these analyses is to evaluate the impact of the rulemaking actions on small entities. This requirement does not apply to any proposed or final rule if the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities.

There is no evidence in the record that the final rule would have a significant economic impact on a substantial number of small entities. Even assuming that this commenter's firm would qualify as a "small entity" under the Regulatory Flexibility Act, it would represent only one such entity.

Moreover, in the NPRM, the OCST Director certified that this rule would not have a significant economic impact on a substantial number of small entities. This determination was based on the data and findings set forth in the Regulatory Evaluation made available to the public at the time the NPRM was published. Appendix B, in particular, addresses direct economic impacts on launch companies (both large and small) expressed in terms of profit margins; and impacts on all parties potentially affected by user fees described in qualitative and, where possible, quantitative terms. That analysis concludes that, based on the relative magnitude of user fees compared to planned launch prices, user fees will not be the determining factor as to whether or not a company will stay in business, even in the short term when profit margins may not be positive.

Other Comments

One commenter argued that any user fee structure should be established to cover a five-to-ten-year period in order to allow launch providers to reflect such costs in advance in their launch prices to customers. Because launch companies often compete for and execute fixed price contracts well in advance of scheduled launch dates, the concern is that this final rule would result in higher costs for the launcher that could not be passed on to its customers.

The Office is well aware of this reality in the launch market, and the potential effect on commercial operators providing launch services under fixed price contracts. In the Regulatory Evaluation, this was one of a number of potential economic impacts on industry that was considered in establishing the level of OCST's user fees. Based on this assessment, the Office continues to believe that even if a launch company must absorb some or all of the added costs from user fees in the near term, the user fees on balance should not have a seriously adverse effect on industry development as a whole or financial viability of any individual existing firm.

One commenter suggested that the Department's Commercial Space Transportation Advisory Committee (COMSTAC) should represent industry for review and approval of cost elements included in future user fees.

The COMSTAC is the primary source of recommendations to the Secretary of Transportation concerning issues affecting commercial space transportation, including elements of cost for proposed user fees. However, prior approval by COMSTAC of such regulations would constitute an unlawful delegation of the Secretary's statutory authority under the CSLA and IOAA.

Finally, at a recent hearing, the Chairman of the House Subcommittee on Space questioned the application of user fees to licensed commercial launches of government payloads. Because the U.S. Government is a major purchaser of commercial launch services and all or part of the cost of user fees could be passed on to the government agency customer, the concern is that the government would end up paying most of OCST's user fees. Thus, it was suggested that the revenues collected from user fees should be dedicated (through a trust fund device or otherwise) to improve launch infrastructure or to support technological development, rather than to offset the cost of OCST's licensing activities.

Because the contracts for most launches of government payloads currently identified in the U.S. Commercial Launch Manifest have been finalized, user fees charged to licensees proposing to launch such payloads are not likely to be passed on to the government agency customer. With

respect to future contracts, agency-to-agency transfers of funds for services rendered by one agency for the benefit of another are fairly commonplace within the Executive Branch and even within individual agencies. However, the Office will monitor future contracts for commercial launches of government payloads to evaluate the impact of user fees on government resources.

With respect to the suggested application of user fees collected pursuant to this final rule, the DOT Appropriations Act for fiscal year 1991 provides for application of up to $300,000 in user fee revenues in fiscal year 1991 to the OCST Operations and Research appropriation to offset some of the costs of OCST's licensing activities. User fees in excess of $300,000 would be deposited in miscellaneous receipts of the general fund of the U.S. Treasury. However, no provision is made authorizing OCST to apply user fees to launch infrastructure improvements or technology development programs. In the absence of such authority, OCST's user fee revenues may not be used for these purposes.

Section-by-Section Analysis

Part 413—Applications

Section 413.5 has been amended by adding a new subsection (d) that specifies that an annual fee of $2,500 must accompany any license application to conduct commercial space activities. This annual fee is applicable regardless of the length of time the license is in force. That is, whether the license is in force for one month or several years, the annual fee of $2,500 must be paid. The full $2,500 fee must accompany the license application even if the license is denied or is in force for less than one year. If the license is for activities that cover more than one year, the $2,500 fee must accompany the original license application, and subsequent annual payments of $2,500 must be paid on or before the anniversary date of issuance of the license, in order for the license to remain in force. The $2,500 payment, in the form of a certified check or wire transfer payable to the Department of Transportation, Office of Commercial Space Transportation, must accompany any and all license applications and is non-refundable. Application for any license, including a launch license as well as any other type of license, must be accompanied by a license application fee.

Part 415—Launch Licenses

Section 415 subpart A has been amended by adding a new § 415.4 that requires that a fee be paid to OCST for each launch that is conducted under a launch license issued by OCST. The per-launch fee differs for orbital and suborbital launches, and must be paid in addition to the license application fee. For orbital launches, the fee will vary depending on the maximum delivery capacity of the vehicle. The fee is $2.50 per pound of payload lift capability to low earth orbit, and will be calculated based on a nominal 150 nautical mile circular orbit with a 28.5 degree inclination, launched from the Eastern Space and Missile Center in Florida. These parameters are relevant only for the calculation of the launch fee; they allow for a uniform frame of reference and do not necessarily correlate with the parameters of the specific mission to which the fee applies. For suborbital launches, a fee of $1,000 must be paid to OCST for each launch. This fee does not vary by vehicle payload capability because the benefit accruing to the licensee is relatively modest, performance capability comparisons are difficult to quantify for such launches, and the variance among different launch vehicles is not significant for purposes of OCST activities.

Section 415.9 has been added to specify that full payment of the launch fee must be received by OCST no later than 30 days after launch. The fee must be payable to the Department of Transportation, Office of Commercial Space Transportation, and must be paid by certified check or wire transfer.

Rulemaking Analyses and Notices

A. Executive Order No. 12291

Executive Order (E.O.) No. 12291 requires that regulations be classified as major or non-major for purposes of review by the Office of Management and Budget (OMB). According to E.O. No. 12291, major rules are regulations that are likely to result in:

(1) An annual effect on the economy of $100 million or more; or

(2) A major increase in costs or prices for consumers, individual industries, federal, state, or local government agencies, or geographic regions; or

(3) Significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

OCST has determined that the rule is non-major because it would not result in an annual effect on the economy of $100 million or more, a major increase in costs or prices referenced in (2) above, or any of the significant adverse effects referenced in (3) above.

B. Department Regulatory Policies and Procedures

This regulation is significant under the Department's Regulatory Policies and Procedures, dated February 26, 1979, because it involves a matter on which there is substantial public interest or controversy and initiates a substantial change in policy. A regulatory evaluation analyzing the economic effects of this rule has been prepared and placed in the docket.

C. Regulatory Flexibility Act

Under the Regulatory Flexibility Act, whenever an agency issues a proposed or final rule, it must prepare and make available a Regulatory Flexibility Analysis that describes the impact of the rule on small entities (i.e., small businesses, small organizations, and small governmental jurisdictions), unless the agency's administrator certifies that the rule will not have a significant impact on a substantial number of small entities. On the basis of the analysis contained in the regulatory evaluation document supporting this rulemaking with respect to the impact of this rule on small entities, I hereby certify that this rule will not have a significant impact on a substantial number of small entities. This proposed rule, therefore, does not require a Regulatory Flexibility Analysis.

D. Paperwork Reduction Act

There are no reporting or record-keeping provisions included in this rule that require approval from the Office of Management and Budget under section 3504(h) of the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 et. seq.

List of Subjects in 14 CFR Parts 413 and 415

Administrative practice and procedure, Space transportation and exploration, Launch operations, Launch vehicles, User fees.

Issued in Washington, DC, August 13, 1991.

Stephanie E. Myers,

Director, Office of Commercial Space Transportation.

For the reasons set out in the preamble, title 14 of the Code of Federal Regulations will be amended as follows:

PART 413—APPLICATIONS

1. The authority citation for part 413 is revised to read as follows:

Authority: Sections 9, 10, 11, and 20, Pub. L. 98–575 (49 U.S.C. App. 2601 note). § 413.5 also issued under 31 U.S.C. 9701.

2. In § 413.5, paragraph (d) is added to read as follows:

§ 413.5 Application.

* * * * *

(d) *Payment with application.* An application for a license authorizing the conduct of commercial space activities must be accompanied by a license application fee of two thousand, five hundred dollars ($2,500.00).

(1) The license application fee shall be payable upon submission of the application and shall be non-refundable.

(2) The license application fee shall be paid by certified check or wire transfer made payable to the Department of Transportation, Office of Commercial Space Transportation.

(3) Any license issued pursuant to § 413.13 which authorizes activities that continue beyond twelve (12) months may be administratively renewed annually upon payment of a two thousand five hundred dollar ($2,500.00) license fee, payable on or before the anniversary date of the license issued pursuant to § 413.13.

PART 415—LAUNCH LICENSES

3. The authority citation for part 415 is revised to read as follows:

Authority: Secs. 6, 7, 8, and 9, Pub. L. 98–575 (49 U.S.C. App. 2601 note). §§ 415.4 and 415.9 also issued under 31 U.S.C. 9701.

4. A new § 415.4 is added to read as follows:

§ 415.4 Launch fee.

(a) Each licensee shall pay a launch fee for each launch conducted by the licensee pursuant to a launch license.

(b) The launch fee for an orbital launch is to be calculated based on maximum payload lift capability of the launch vehicle to a nominal 150 nautical mile circular earth orbit with a 28.5 degree inclination launched from the Eastern Space and Missile Center, Florida.

(c) The launch fee for an orbital launch shall be $2.50 per pound of payload lift capability as defined in paragraph (b) of this section.

(d) The launch fee for a suborbital launch shall be a flat rate of $1,000 per launch.

5. In § 415.9 paragraph (e) is added to read as follows:

§ 415.9 Standard conditions.

* * * * *

(e) Provide, no later than 30 days after launch, full payment of the launch fee by certified check or wire transfer made payable to the Department of Transportation, Office of Commercial Space Transportation.

[FR Doc. 91–19770 Filed 8–16–91; 8:45 am]
BILLING CODE 4910–62–M

DEPARTMENT OF STATE

Bureau of Consular Affairs

22 CFR Part 41

[Public Notice 1459]

Visas: Documentation of Nonimmigrants Under Sections 206, 207, and 208 of Public Law 101–649

AGENCY: Bureau of Consular Affairs, DOS.

ACTION: Interim rule with request for comments.

SUMMARY: In order to implement the provisions of sections 205, 206, 207, and 208 of the Immigration Act of 1990, Public Law 101–649, this interim rule amends part 41 to title 22 of the Code of Federal Regulations (1) to incorporate changes enacted by that law regarding sections 101(a)(15)(H) and 101(a)(15)(L) of the Immigration and Nationality Act (INA), and (2) to create §§ 41.55, 41.56, and 41.57, to implement the new nonimmigrant classifications under INA sections 101(a)(15) (O), (P), and (Q), as amended by the Immigration Act of 1990. Although sections 205 and 206 make significant changes to INA 101(a)(15)(H) and 101(a)(15)(L), only modest changes have been made to §§ 41.53 and 41.54, respectively, as the statutory amendments focus on issues which must be addressed by the Immigration and Naturalization Service (INS) during the petition adjudication process.

The interim regulations at § 41.55, "aliens with extraordinary ability" INA 101(a)(15)(O), § 41.56, "athletes or artists and entertainers" INA 101(a)(15)(P), and § 41.57 "international cultural exchange visitors" INA 101(a)(15)(Q) use essentially the same language as that used in the regulations in § 41.53 and § 41.54, as they are patterned after those two sections. Regardless of the different requirements peculiar to each classification, the consular officer's responsibility for processing visa applications in these petition-based nonimmigrant visa classifications is the same.

DATES: Effective October 1, 1991. Written comments are invited and must be received in duplicate on or before September 18, 1991.

ADDRESSES: Interested persons are invited to submit comments in duplicate to: Chief, Division of Legislation and Regulations, Visa Office, Department of State, Washington, DC 20522–0113.

FOR FURTHER INFORMATION CONTACT: Stephen K. Fischel, Chief, Legislation and Regulations Division, 202–663–1204.

SUPPLEMENTARY INFORMATION: This interim rule revises §§ 41.53 and 41.54 to 22 CFR, and adds new regulations at 22 CFR 41.55, 41.56, and 41.57. The Department has decided to publish the interim regulations in a single rule due to the similarity of the regulations. The rule incorporates amendments to the Immigration and Nationality Act as in Public Law 101–649. Each regulatory section addresses a separate nonimmigrant visa classification under INA 101(a)(15). The regulatory breakdown is as follows:

INA 101(a)(15)	22 CFR part 41	Classes of aliens
(H)	§ 41.53	Temporary workers.
(L)	§ 41.54	Intracompany transferees.
(O)	§ 41.55	Aliens with extraordinary ability.
(P)	§ 41.56	Athletes, artists or entertainers.
(Q)	§ 41.57	International cultural exchange visitors.

Adjudication and review of petitions

The regulatory structure was devised to comport with the statutory procedure for processing such visas. In the case of each classification a petition, Form I–129, Petition for Nonimmigrant Worker, must be filed with and approved by the Immigration and Naturalization Service (INS), before it is transmitted to a consular post for visa processing. The authority for INS to adjudicate such petitions lies in INA 214 except in the case of the new "Q" visa classification. INS's proposed regulations at 8 CFR 214.2(q) would authorize the Service to adjudicate and approve the appropriate petitions to accord "Q" visa status. In the case of each classification, the approved petition is deemed to constitute prima facie evidence that the alien is entitled to the visa status sought. This means that INS is satisfied that the petition beneficiary/visa applicant meets all the requirements of the classification in question (absent the element of nonimmigrant intent where still applicable as not part of the petition adjudication process). While the petition approval is prima facie evidence of entitlement to the status accorded by the petition, the consular officer, however, has the responsibility to suspend action on, and return for reconsideration, any approved petition if in the course of visa processing information comes to his or her attention which casts doubt upon the propriety of the approval.

Under normal circumstances, upon receipt of the petition or notification of petition approval, the consular officer proceeds to process the visa application by adjudicating the pertinent nonimmigrant intent requirement, if such exists for that classification.

Validity of Visa

In issuing the visa the consular officer looks both to the applicable visa validity reciprocity schedule maintained pursuant to INA 221(c) and to the period of validity of the petition. As the underlying basis of entitlement to the visa classification lies in the approved petition, the consular officer may issue a visa valid for the maximum allowable period under the reciprocity schedule not to exceed the period of validity indicated on the individual petition. The only exception to this rule is found in intracompany transferee blanket petition cases, which differ in character from individual petition cases. The approved blanket petition verifies that a business entity meets certain qualifications under INS regulations to allow visa applications of certain employees to be processed without the necessity of obtaining individual petition approval for each employee. In such cases, as long as the blanket petition is valid, a visa may be issued in accordance with the applicable reciprocity schedule up to a maximum period of validity of 3 years rather than the validity period of the blanket petition.

Interim Regulations

The interim regulations at §§ 41.53(d) and 41.54(a)(5) are amended to reflect changes made by section 206 and section 207 of the Immigration Act of 1990. Minor editorial changes have been made to these sections which have also been reorganized. The new regulations at 22 CFR 40.55, 40.56, and 40.57 incorporate the provisions of sections 207, 208 and 209 of the Immigration Act of 1990.

In paragraph (a) of each regulatory section, the requirements of the pertinent classification are stated in general terms focusing on the petition. All of the significant changes to INA 101(a)(15) (H)(i)(b), (H)(ii), and (L) and relate to the petition adjudication process. It should also be noted that the Immigration and Naturalization Service proposes to implement the numerical limitations imposed by section 205(a) of Public Law 101–649 on visas issued under INA 101(a)(15)(H) (i)(b), (ii)(b) (P)(i), and (P)(iii). Thus, an approved petition constitutes prima facie evidence to the consular officer that not only has the petition beneficiary/visa applicant met all the requirements of the visa classification, but also that the visa number is available and properly accorded. Paragraph (c) of each section sets the maximum period of validity of visas issued under that classification. Paragraph (d) of each section authorizes the consular officer to suspend action in a case and return the petition to the approving office of INS under certain conditions.

Section 41.53, paragraph (e) continues to define "trainee". Paragraph (e) of § 41.54 requires the consular officer to deny visas in blanket petition cases under certain circumstances. Paragraphs (f) of §§ 41.53 and 41.54 remain the same.

Paragraphs (a), (b), (c), and (d) of §§ 41.55, 41.56, and 41.57 are identical with the same paragraphs in §§ 41.53 and 41.54.

This interim rule is not considered to be a major rule for purposes of Executive Order 12291 nor is it expected to have a significant impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. The rule does not require collection of information subject to the Paperwork Reduction Act.

List of Subjects in 22 CFR Part 41

Aliens, Artists and entertainers.

In view of the legislative mandate of Public Law 101–649, part 41 to title 22 is amended by revising §§ 41.53 and 41.54 and by adding new §§ 41.55, 41.56, and 41.57.

1. The authority citation for part 41 is revised to read:

Authority: 8 U.S.C. 1104; 8 U.S.C. 1184; 8 U.S.C. 1101(a)(15).

2. Part 41, subpart F—Business and News Media, is amended by revising § 41.53, and § 41.54, and adding §§ 41.55, 41.56, and 41.57 to read:

PART 41—[AMENDED]

§ 41.53 Temporary workers and trainees.

(a) *Requirements for H classification.* An alien shall be classifiable under INA 101(a)(15)(H) if:

(1) The consular officer is satisfied that the alien qualifies under that section; and

(2) The consular officer has received a petition approved by INS to accord such classification or an official notification of the approval thereof; or

(3) The alien shall have presented to the consular officer official confirmation of the approval by INS of the petition to accord the alien such classification or of the extension by INS of the period of authorized stay in such classification; or

(4) The consular officer is satisfied the alien is the spouse or child of an alien so classified and is accompanying or following to join the principal alien.

(b) *Petition approval.* The approval of a petition by the Immigration and Naturalization Service does not establish that the alien is eligible to receive a nonimmigrant visa.

(c) *Validity of visa.* The period of validity of a visa issued on the basis of paragraph (a) to this section must not exceed the period indicated in the petition, notification, or confirmation required in paragraph (a)(2) or (a)(3) of this section.

(d) *Alien not entitled to H classification.* The consular officer must suspend action on the alien's application and submit a report to the approving INS office if the consular officer knows or has reason to believe that an alien applying for a visa under INA 101(a)(15)(H) is not entitled to the classification as approved.

(e) *Trainee defined.* The term *trainee*, as used in INA 101(a)(15)(H)(iii), means a nonimmigrant alien who seeks to enter the United States temporarily at the invitation of an individual, organization, firm, or other trainer for the purpose of receiving instruction in any field of endeavor (other than graduate medical education or training), including agriculture, commerce, communication, finance, government, transportation, and the professions.

(f) *Former exchange visitor.* Former exchange visitors who are subject to the 2-year residence requirement of INA 212(e) are ineligible to apply for visas under INA 101(a)(15)(H) until they have fulfilled the residence requirement or obtained a waiver of the requirement.

§ 41.54 Intracompany transferees (executives, managers, and specialists).

(a) *Requirements for L classification.* An alien shall be classifiable under the provisions of INA 101(a)(15)(L) if:

(1) The consular officer is satisfied that the alien qualifies under the provisions of that section; and

(2) The consular officer has received an individual petition approved by INS to accord such classification to the alien or an official notification of the approval thereof; or

(3) The alien has presented to the consular officer official confirmation of approval by Immigration and Naturalization Service (INS) of an individual petition according such classification to the alien or confirmation of the extension by INS of the alien's authorized stay in such classification; or

(4) The alien has presented to the consular officer an approved blanket petition or a notification of approval listing those intracompany relationships and positions which were found to qualify under INA 101(a)(15)(L); or

(5) The alien has presented to the consular officer a blanket petition to accord such classification to qualified aliens who are being transferred to qualifying positions identified in the approved blanket petition; or

(6) The consular officer is satisfied the alien is the spouse or child of an alien so classified and is accompanying or following to join the principal alien.

(b) *Petition approval.* The approval of a petition by INS does not establish that the alien is eligible to receive a nonimmigrant visa.

(c) *Validity of visa.* (1) The period of validity of a visa issued on the basis of paragraph (a) to this section must not exceed the period indicated in the petition, notification, or confirmation required in paragraph (a)(2), or (a)(3) of this section.

(2) The period of validity of a visa issued on the basis of paragraph (a) to this section is not limited to the period of validity indicated in the blanket petition, notification, or confirmation required in paragraph (a)(4) or (a)(5) of this section.

(d) *Alien not entitled to L–1 classification under individual petition.* The consular officer must suspend action on the alien's application and submit a report to the approving INS office if the consular officer knows or has reason to believe that an alien applying for a visa as the beneficiary of an approved individual petition under INA 101(a)(15)(L) is not entitled to such classification as approved.

(e) *Alien not entitled to L–1 classification under blanket petition.* The consular officer shall deny L classification based on a blanket petition if the documentation presented by the alien claiming to be a beneficiary thereof does not establish to the satisfaction of the consular officer that—

(1) The alien has been continuously employed by the same employer, an affiliate or subsidiary thereof, for 1 year within the 3 years immediately preceding the application for the L visa;

(2) The alien was occupying a qualifying position throughout that year; or

(3) The alien is destined to a qualifying position identified in the petition and in an organization listed in the petition.

(f) *Former exchange visitor.* Former exchange visitors who are subject to the 2-year foreign residence requirement of INA 212(e) are ineligible to apply for visas under INA 101(a)(15)(L) until they have fulfilled the residence requirement or obtained a waiver of the requirement.

§ 41.55 Aliens with extraordinary ability.

(a) *Requirements for O classification.* An alien shall be classifiable under the provisions of INA 101(a)(15)(O) if:

(1) The consular officer is satisfied that the alien qualifies under the provisions of that section; and

(2) The consular officer has received a petition approved by INS to accord such classification or an official notification of the approval thereof; or

(3) The alien shall have presented to the consular officer official confirmation of the approval by Immigration and Naturalization Service (INS) of the petition to accord the alien such classification or of the extension by INS of the period of authorized stay in such classification; or

(4) The consular officer is satisfied the alien is the spouse or child of an alien so classified and is accompanying or following to join the principal alien.

(b) *Approval of visa.* The approval of a petition by INS does not establish that the alien is eligible to receive a nonimmigrant visa.

(c) *Validity of visa.* The period of validity of a visa issued on the basis of paragraph (a) to this section must not exceed the period indicated in the petition, notification, or confirmation required in paragraph (a)(2) or (a)(3) of this section.

(d) *Alien not entitled to O classification.* The consular officer must suspend action on the alien's application and submit a report to the approving INS office if the consular officer knows or has reason to believe that an alien applying for a visa under INA 101(a)(15)(O) is not entitled to the classification as approved.

§ 41.56 Athletes, artists and entertainers.

(a) *Requirements for P classification.* An alien shall be classifiable under the provisions of INA 101(a)(15)(P) if:

(1) The consular officer is satisfied that the alien qualifies under the provisions of that section; and

(2) The consular officer has received a petition approved by Immigration and Naturalization Service (INS) to accord such classification or an official notification of the approval thereof; or

(3) The alien shall have presented to the consular officer official confirmation of the approval by INS of the petition to accord the alien such classification or of the extension by INS of the period of authorized stay in such classification; or

(4) The consular officer is satisfied the alien is the spouse or child of an alien so classified and is accompanying or following to join the principal alien.

(b) *Approval of visa.* The approval of a petition by INS does not establish that the alien is eligible to receive a nonimmigrant visa.

(c) *Validity of visa.* The period of validity of a visa issued on the basis of paragraph (a) to this section must not exceed the period indicated in the petition, confirmation, or extension of stay required in paragraph (a) (2) or (3) of this section.

(d) *Alien not entitled to P classification.* The consular officer must suspend action on the alien's application and submit a report to the approving INS office if the consular officer knows or has reason to believe that an alien applying for a visa under INA 101(a)(15)(P) is not entitled to the classification as approved.

§ 41.57 International cultural exchange visitors.

(a) *Requirements for Q classification.* An alien shall be classifiable under the provisions of INA 101(a)(15)(Q) if:

(1) The consular officer is satisfied that the alien qualifies under the provisions of that section; and

(2) The consular officer has received a petition approved by INS to accord such classification or an official notification of the approval thereof; or

(3) The alien shall have presented to the consular officer official confirmation of the approval by Immigration and Naturalization Service (INS) of the petition to accord the alien such classification or of the extension by INS of the period of authorized stay in such classification.

(b) *Approval of petition.* The approval of a petition by INS does not establish that the alien is eligible to receive a nonimmigrant visa.

(c) *Validity of visa.* The period of validity of a visa issued on the basis of paragraph (a) of this section must not exceed the period indicated in the petition, notification, or confirmation required in paragraph (a)(2) or (a)(3) of this section.

(d) *Alien not entitled to Q classification.* The consular officer must suspend action on the alien's application and submit a report to the approving INS office if the consular officer knows or has reason to believe that an alien applying for a visa under INA 101(a)(15)(Q) is not entitled to the classification as approved.

Dated: August 8, 1991.

Elizabeth M. Tamposi,

Assistant Secretary for Consular Affairs.

[FR Doc. 91–19746 Filed 8–16–91; 8:45 am]

BILLING CODE 4710–06–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 147

[FRL 3980–2]

Indiana Department of Natural Resources (IDNR); Underground Injection Control (UIC) Program; Primacy Program Approval

AGENCY: Environmental Protection Agency (EPA).

ACTION: Approval of State Primacy Program.

SUMMARY: The IDNR has submitted an application under section 1425 of the Safe Drinking Water Act (SDWA) for the approval of an UIC program for the regulation of Class II injection well activities. After careful review of the application, the EPA has determined that the State's UIC program meets the requirements of the SDWA and, therefore, approves it.

EFFECTIVE DATE: This approval shall become effective on August 19, 1991. The incorporation by reference of certain materials listed in the regulations is approved by the Director of the **Federal Register** as of August 19, 1991.

ADDRESSES: The public docket and supporting documents for this rulemaking are available for review during normal business hours at the Environmental Protection Agency, Region V, 230 South Dearborn Street, Chicago, Illinois, 60604.

FOR FURTHER INFORMATION CONTACT: Richard J. Zdanowicz, Office of Drinking Water (5WD–TUB–9), EPA, Region V, 230 South Dearborn Street, Chicago, IL, 60604, Phone: (312) 886–1502.

SUPPLEMENTARY INFORMATION: Part C of the Safe Drinking Water Act (SDWA) contains provisions for an UIC program. Section 1421 of the SDWA requires the Administrator to promulgate minimum requirements for effective State programs to prevent underground injection activities which endanger underground sources of drinking water (USDW's). The State shall submit to the Administrator an application which contains a showing, satisfactory to the Administrator that the State: (1) Has adopted, after reasonable notice and public hearings, an UIC program which meets the requirements of regulations in effect under section 1421 of the SDWA; and (2) will keep such records and make such reports with respect to its activities under its UIC program as the Administrator may require by regulations. After reasonable opportunity for public comment, the Administrator shall, by rule, approve, disapprove, or approve in part, the State UIC program.

The SDWA was amended on December 5, 1980, to include section 1425. Section 1425 established an alternative method by which a State may obtain primary enforcement responsibility for an UIC program to regulate the following types of injection practices: Injection of fluids produced during oil or gas production, injection of fluids for the storage of hydrocarbons, and injection of fluids for enhanced recovery of oil and natural gas. Specifically, instead of meeting the Federal Regulations in 40 Code of Federal Regulations (CFR) parts 124, 144, 145, and 148, and the related technical criteria and standards in 40 CFR part 146, a State may demonstrate that its program meets the more general statutory requirements of section 1421(b)(1) (A) through (D) and represents an effective program to prevent endangerment of USDW's.

EPA published notice on December 6, 1990, pending the receipt of a complete primacy application, to request public comments, and to schedule a public hearing on the UIC program submitted by the IDNR (55 FR 50397). A complete application from the IDNR was received on December 14, 1990, requesting delegation of primacy for the proposed UIC program. A public hearing was held on Tuesday, January 8, 1991, in Vincennes, Indiana. No significant negative comments were received. EPA has responded to all comments in a separate Responsiveness Summary which is available in the public record for today's decision.

After careful review of the application and comments received from the public, the EPA has determined that the Indiana UIC program submitted by the IDNR for Class II injection wells meets the requirements of section 1425 of the SDWA and is hereby approved.

This program replaces the existing EPA-administered program for all Class II injection wells on non-Indian lands. EPA promulgated an UIC program for Indiana on June 25, 1984, in order to comply with the requirement of the SDWA to promulgate a Federally-administered program in the absence of a State-administered program. Now that EPA has determined that the State-administered program meets all applicable Federal requirements, the EPA is withdrawing the EPA-administered program for Class II injection wells on non-Indian lands and establishing the State-administered program as the applicable UIC program for Class II injection wells on non-Indian lands in the State of Indiana.

This approval will be codified in part 147 of 40 CFR, State Underground Injection Control Programs, in § 147.750 currently reserved for the State-administered program. State statutes and regulations that contain standards, requirements, and procedures applicable to owners or operators are incorporated by reference into the Federal regulations. These provisions incorporated by reference, as well as all permit conditions or permit denials issued pursuant to such provisions, are enforceable by EPA pursuant to section 1423 of the SDWA. See 40 CFR 147.1(e).

The Office of Management and Budget (OMB) has exempted this rule from the requirements of section 3 of Executive Order 12291.

EPA has determined that an Information Collection Request under the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*, is unnecessary because today's decision imposes no new federal reporting or record-keeping requirements.

Pursuant to the provisions of the Regulatory Flexibility Act, 5 U.S.C. 605(b), the Administrator certifies that approval by EPA under section 1425 of the SDWA of the application by the Indiana Department of Natural Resources will not have a significant economic impact on a substantial number of small entities since this rule only approves State actions. This rule imposes no new requirements on small entities.

In light of the lack of significant public comment received on the proposed approval, there is good cause for making this approval effective immediately. 5 U.S.C. 553(d).

List of Subjects in 40 CFR Part 147

Administrative practice and procedure, Incorporation by reference, Intergovernmental relations, Reporting and record keeping requirements, Underground injection.

Dated: July 26, 1991.

William K. Reilly,

Administrator.

For the reasons set out in the preamble, part 147 of title 40 of the Code of Federal Regulations is amended as follows:

PART 147—STATE UNDERGROUND INJECTION CONTROL PROGRAMS

1. The authority citation for part 147 continues to read as follows:

Authority: 42 U.S.C. 300h *et seq.*; and 42 U.S.C. 6901 *et seq.*

Subpart P—Indiana [Amended]

2. By adding § 147.750 to read as follows:

§ 147.750 State-administered program—Class II wells.

The UIC program for Class II injection wells in the State of Indiana on non-Indian lands is the program administered by the Indiana Department of Natural Resources (INDR) approved by the EPA pursuant to section 1425 of the SDWA. Notice of this approval was published in the FR on August 19, 1991; the effective date of this program is August 19, 1991. This program consists of the following elements, as submitted to EPA in the State's program application:

(a) *Incorporation by reference.* The requirements set forth in the State statutes and regulations cited in this paragraph are hereby incorporated by reference and made a part of the applicable UIC program under the SDWA for the State of Indiana. This incorporation by reference was approved by the Director of the FR in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained at the Indiana Department of Natural Resources, Division of Oil and Gas, 402 West Washington Street, room 293, Indianapolis, Indiana, 46204. Copies may be inspected at the Environmental Protection Agency, Region V, 230 South Dearborn Street, Chicago, Illinois, 60604, or at the Office of the Federal Register, 1100 L Street NW., Washington, DC 20408.

(1) Indiana Code, title 4, article 21.5, chapters 1 through 6 (1988).

(2) West's Annotated Indiana Code, title 13, article 8, chapters 1 through 15 (1990 and Cumm. Supp. 1990).

(3) Indiana Administrative Code, title 310, article 7, rules 1 through 3 (Cumm. Supp. 1991).

(b) *Memorandum of Agreement.* The Memorandum of Agreement between EPA Region V and the Indiana Department of Natural Resources signed by the EPA Regional Administrator on February 18, 1991.

(c) *Statement of legal authority.* Statement and Amendment to the Statement from the Attorney General of the State of Indiana, signed on July 12, 1990, and December 13, 1990, respectively.

(d) The Program Description and any other materials submitted as part of the original application or as supplements thereto.

3. By revising § 147.751(a) to read as follows:

§ 147.751 EPA-administered program.

(a) *Contents.* The UIC program for all classes of wells on Indian lands, and for Class I, III, IV, and V wells on non-Indian lands in the State of Indiana is administered by the EPA. The program consists of the UIC program requirements of 40 CFR parts 124, 144, 146, and 148 and the additional requirements set forth in the remainder of this subpart. Injection well owners and operators, and EPA shall comply with these requirements.

* * * * *

4. By revising the title of § 147.753 to read as follows:

§ 147.753 Existing Class I and III wells authorized by rule.

* * * * *

§§ 147.754, 147.755 [Removed]

5. By removing §§ 147.754 and 147.755.

[FR Doc. 91-19755 Filed 8-16-91; 8:45 am]
BILLING CODE 6560-50-M

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40 CFR Part 261

[SW-FRL-3985-6]

Hazardous Waste Management System; Identification and Listing of Hazardous Waste; Final Denial

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA or Agency) today is finalizing its decision to deny a petition submitted by Acme Fill Corporation, Martinez, California to exclude certain solid wastes generated at its facility from the lists of hazardous wastes contained in 40 CFR 261.31 and 261.32. this action responds to a delisting petition submitted under 40 CFR 260.20, which allows any person to petition the Administrator to modify or revoke any provision of parts 260 through 265, and 268 of title 40 of the Code of Federal Regulations, and under 40 CFR 260.22, which specifically provides generators the opportunity to petition the administrator to exclude a waste on a "generator-specific" basis from the hazardous waste lists. This rulemaking finalizes the proposed denial for Acme Fill's petitioned waste published on May 1, 1990 (see 55 FR 18132). The effect of this action is that this waste must continue to be handled as hazardous in accordance with 40 CFR parts 260 through 268 and the permitting standards of 40 CFR part 270.

EFFECTIVE DATE: August 19, 1991.

ADDRESSES: The public docket for this final rule is located at the U.S. Environmental Protection Agency, 401 M Street, SW. (room M2427), Washington, DC 20460, and is available for viewing from 9 a.m. to 4 p.m., Monday through Friday, excluding Federal holidays. Call (202) 475-9327 for appointments. The reference number for this docket is "F-90-AFDF-FFFFF". The public may copy material from any regulatory docket at a cost of $0.15 per page.

FOR FURTHER INFORMATION CONTACT: For general information, contact the RCRA Hotline, toll free at (800) 424-9346, or at (703) 920-9810. For technical information concerning this notice, contact Chichang Chen, Office of Solid Waste (OS-333), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460, (202) 382-7392.

SUPPLEMENTARY INFORMATION:

I. Background

A. Authority

Under 40 CFR 260.20 and 260.22, facilities may petition the Agency to remove their wastes from hazardous waste control by excluding them from the lists of hazardous wastes contained in 40 CFR 261.31 and 261.32. Petitioners must provide sufficient information to EPA to allow the Agency to determine: (1) That the waste to be excluded is not hazardous based upon the criteria for which it was listed, and (2) that no other hazardous constituents are present in the waste at levels of regulatory concern.

B. History of the Rulemaking

Acme Fill Corporation (Acme Fill), located in Martinez, California, petitioned the Agency for a one-time exclusion of its untreated landfill leachate contained on-site in its North Parcel Landfill. After evaluating the petition, EPA proposed, on May 1, 1990, to deny Acme Fill's petition to exclude its waste from the lists of hazardous waste under 40 CFR 261.31 and 261.32 (see 55 FR 18132).

This rulemaking addresses public comments received on the proposal and finalizes the proposed decision to deny Acme Fill's petition.

II. Disposition of Delisting Petition

Acme Fill Corporation, Martinez, California.

1. Proposed Exclusion

Acme Fill Corporation (Acme Fill), located in Martinez, California, petitioned the Agency to exclude, on a one-time basis, its untreated landfill leachate contained on-site in its North Parcel Landfill. Acme Fill's leachate is listed as EPA Hazardous Waste Nos.: U002 (Acetone), U080 (Methylene chloride), U213 (Tetrahydrofuran), and U226 (1,1,1-Trichloroethane). The basis for listing for EPA Hazardous Waste Nos. U002 and U213 is ignitability; the basis for listing for EPA Hazardous Waste Nos. U080 and U226 is toxicity (see 40 CFR 261.33).

In support of its petition, Acme Fill submitted: (1) General descriptions of its landfill, waste disposal practices, and leachate collection process; (2) a list of materials disposed in the North Parcel Landfill (3) results from total constituent analyses of the waste for the EP toxic metals, antimony, beryllium, cobalt, nickel, thallium, vanadium, sulfide, and cyanide; (4) results from total constituent analyses of the waste for selected hazardous organic constituents; (5) results from characteristics testing for ignitability, corrosivity, and reactivity; and (6) results from the analyses of ground-water samples collected from wells that monitor the North Parcell Landfill.

The Agency evaluated the information and analytical data provided by Acme Fill in support of its petition and determined that the hazardous constituents found in the petitioned waste could pose a threat to human health and the environment. Specifically, the Agency used its vertical and horizontal spread (VHS) model to predict the potential mobility of the hazardous constituents found in the petitioned waste. The Agency also evaluated ground-water monitoring information submitted in support of Acme Fill's petition. Based on these evaluations, the Agency determined that Acme Fill failed to substantiate its claim that the hazardous constituents of concern will not leach and migrate at concentrations above the health-based levels used in delisting decision-making. See 55 FR 18132, May 1, 1990, for a more detailed explanation of why EPA proposed to deny Acme Fill's petition.

2. Agency Response to Public Comments

The Agency received comments regarding its decision to deny Acme Fill's petition from one interested party. The commenter opposed the Agency's decision to deny Acme Fill's petition and submitted comments covering the following areas: (1) Use of a surface impoundment as a resonable worst-case scenario, (2) use of the VHS model to evaluate the petitioned waste, (3) use and interpretation of ground-water monitoring data, and (4) comparison of municipal solid waste leachate with the petitioned leachate. The specific comments made by the commenter regarding the Agency's proposed decision to deny the petition and the Agency's response to them are discussed below.

a. Agency's Use of a Surface Impoundment as a Reasonable Worst-Case Disposal Scenario

The commenter suggested that disposal of the petitioned waste in a surface impoundment is not a reasonable worst-case disposal scenario because current regulations prohibit the disposal of free liquids in a surface impoundment or landfill. The commenter believed that reasonable alternative disposal options for the North Parcel leachate include discharge to the local publicly-owned treatment works (POTW), discharge of treated leachate to surface water, or shipment of the leachate off-site for treatment and final disposal. The commenter asserted, therefore, that the assumption that the petitioned waste is disposed of in a surface impoundment is not a valid approach for evaluating possible routes of exposure to the petitioned waste.

The Agency disagrees with the commenter's claim that liquid wastes are necessarily prohibited from disposal in a surface impoundment or landfill. The Agency believes that the commenter is referring to the restrictions cited in 40 CFR 264.314(b) and 265.314(b) regarding the disposal of bulk and non-containerized liquid hazardous wastes in, respectively, permitted and interim-status landfills. The Agency notes that these restrictions do not apply to surface impoundments and are not applicable to the disposal of non-hazardous liquid waste (*e.g.*, Acme Fill's petitioned landfill leachate if an exclusion were granted) in a subtitle D land-based waste management unit. Thus, the Agency believes that the petitioned waste could be disposed of in a landfill or surface impoundment if an exclusion were granted.

Furthermore, although the Agency agrees with the commenter that reasonable alternative disposal options exist for the petitioned waste, the Agency cannot ignore the fact that the petitioned waste is presently managed in a way that is similar to disposal in a surface impoundment. Acme Fill's petition reports that the landfill leachate has been managed, since 1983, in two on-site collection sumps. The Agency believes that the management of the petitioned waste in these sumps could potentially affect human health and the environment in a manner similar to the management of the landfill leachate in a surface impoundment. Despite the fact that alternative disposal options may exist, the Agency believes that a reasonable worst-case disposal scenario is that the petitioned leachate currently managed at Acme Fill's North Parcel Landfill remains in the two on-site collection sumps or that the leachate is placed in an off-site surface impoundment. Therefore, the Agency believes that the surface impoundment management scenario described in the proposed rule (55 FR 18132, May 1, 1990) is appropriate for the evaluation of Acme Fill's petitioned waste.

b. Agency's Use of the VHS Model

The commenter believed that the Agency applied the VHS model without considering site-specific conditions, including factors that control leachate migration and govern the chemical concentration at any given time. The commenter suggested that the following site-specific factors should have been considered in the evaluation of Acme Fill's petition: (1) The migration of leachate from the North Parcel Landfill is restricted by a 40–60 foot continuous layer of silty clay underlying the landfill and a compacted clay subsurface leachate barrier dike that surrounds most of the parcel; (2) the relatively high cation exchange capacity of the clay will adsorb and retard migration of heavy metals; (3) there are no industrial, municipal, domestic, or agricultural downgradient wells (*i.e.*, receptors) near the site; and (4) the ground water at the site is saline and not suitable for development at some future time.

The Agency maintains that its formulation of a delisting decision is waste-specific, not disposal site-specific. As such, the Agency does not believe that delisting evaluations should be based on the possible characteristics of future storage or disposal sites because once a waste is delisted, the waste is removed from Federal regulation as a hazardous waste and can be disposed at any subtitle D facility. Consequently, the Agency, if it were to exclude Acme Fill's waste, would have no guarantee that the petitioned waste would remain in place. The petitioned waste might be relocated to a disposal site with different characteristics (*e.g.*, different geology, receptors, ground-water quality). In fact, in Acme Fill's case, the commenter has argued that the ultimate disposal site may not be the Acme Fill site (see the preceding comment). For these reasons, the Agency believes that a site specific

evaluation is inappropriate, and a generic fate and transport model, such as the VHS model, is appropriate to model a reasonable worst-case disposal scenario for Acme Fill's petitioned waste.

Furthermore, even if the Agency were to consider the factors cited by the commenter, the Agency believes the commenter did not provide adequate data to show why these factors would support granting the delisting. The claim that the underlying clay, in conjunction with the subsurface clay leachate dike, would sufficiently restrict or retard leachate migration was unsubstantiated. The commenter did not provide information that would confirm the integrity of the clay liners/barriers, and thus did not rule out the likelihood that more permeable pathways exist for migration of leachate through or around the clay.

Also, the commenter did not address the likelihood that the clay material is fully saturated with migrating constituents, thereby rendering any retardation/adsorption ineffective. Therefore, the commenter did not provide any documentation to support the use of site-specific factors in the delisting evaluation. The Agency believes, moreover, that the documented ground-water contamination indicates that waste constituents have, in fact, migrated to the ground water, despite any restriction/retardation arising from the clay layer and barrier.

C. Agency's Use and Interpretation of Ground-Water Monitoring Data

The commenter believed that the results of a hydrogeologic assessment prepared for Acme Fill clearly demonstrate that there is no "mappable" plume of contaminants surrounding the Acme Fill site that can be "contoured" from the ground-water data base. The commenter maintained that the Agency incorrectly concluded that the ground-water data for Acme Fill show that the petitioned waste has contaminated ground water.

Although the commenter did not provide the Agency with a copy of the hydrogeologic assessment that is the basis of this comment, the Agency re-examined the ground-water monitoring data submitted by Acme Fill in support of their petition. The Agency notes that, as is the case with Acme Fill's monitoring system, monitoring systems established under RCRA are often designed to detect, rather than delineate the extent of, contaminant plumes. Acme Fill's ground-water monitoring data are, however, sufficient to indicate that the North Parcel Landfill has contributed to ground-water contamination.

As stated in the proposal, concentrations of arsenic, barium, benzene, cadmium, chromium, lead, selenium, silver, and tetrachloroethylene were detected in wells that monitor the North Parcel Landfill at concentrations exceeding the health based levels used in delisting decision-making. Barium, in particular, was detected in 22 of the North Parcel Landfill's 25 monitoring wells at concentrations exceeding the level of regulatory concern; the highest concentration of barium detected was as great as 11 times the level of regulatory concern. (See the RCRA public docket for the proposed rule for copies of these data reports.) The Agency believes that this information indicates that the petitioned waste is a potential source of ground-water contamination.

Furthermore, the commenter neither suggested to the Agency the possible alternate source of the contaminants detected in ground water, nor provided information sufficient to rule out the North Parcel Landfill as a source of the contaminants. Consequently, without information that convincingly demonstrates that the North Parcel Landfill has not contributed to the observed contamination, it is appropriate and reasonable to assume that the North Parcel Landfill is a source of the contaminants detected in ground water. Therefore, the petitioned waste may pose a hazard to human health and the environment and should continue to be managed as a hazardous waste.

d. Comparison of Municipal Solid Waste Leachate With the Petitioned Waste Leachate

The commenter stated that there is little difference between the North Parcel leachate and typical non-hazardous leachate from municipal solid waste landfills and thus, it is not reasonable to assume that the North Parcel leachate is hazardous.

The Agency disagrees with this claim. Wastes are listed as hazardous by the Agency under subtitle C because of their potential to harm human health and the environment. Consequently, the Agency evaluated Acme's waste based on its potential to harm human health and the environment, and not on its similarity to other wastes that are not regulated under subtitle C. As explained in the proposed rule, the Agency determined that Acme Fill's petitioned waste is hazardous based on concentrations of antimony, barium, benzene, bis(2-ethylhexyl)phthalate, 1,2-dichloropropane, fluorene, and thallium reported in the waste, and based on concentrations of arsenic, barium, benzene, cadmium, chromium, lead, selenium, silver, and tetrachloroethylene detected in ground water.

The Agency also notes that the additional data characterizing Acme Fill's landfill leachate submitted by the commenter (*i.e.*, twelve samples collected between September 1988 and June 1989) also indicate the leachate is hazardous. Three of the twelve samples fail the VHS model evaluation for lead; one sample fails the VHS model evaluation for chromium; and one sample fails the VHS model evaluation for barium. See the public docket for today's notice for a description of the evaluation of these additional data.

3. Final Agency Decision

For the reasons stated in the proposal, the Agency believes that Acme Fill's untreated landfill leachate should not be excluded from hazardous waste control. The Agency, therefore, is denying a final exclusion to Acme Fill Corporation, located in Martinez, California, for its untreated landfill leachate described in its petition as EPA Hazardous Waste Nos. U002, U080, U213, and U226 and contained in the North Parcel Landfill. The effect of this rule is that this petitioned waste must continue to be handled as a hazardous waste in accordance with 40 CFR parts 260 through 268 and the permitting standards of 40 CFR part 270.

III. Effective Date

This rule is effective on August 19, 1991. The Hazardous and Solid Waste Amendments of 1984 amended section 3010 of RCRA to allow rules to become effective in less than six months when the regulated community does not need the six-month period to come into compliance. That is the case here because this rule does not change the existing requirements for persons generating hazardous wastes. This facility has been obligated to manage its waste as hazardous before and during the Agency's review of its petition. Because a six-month deadline is not necessary to achieve the purpose of section 3010, EPA believes that this denial should be effective immediately. These reasons also provide a basis for making this rule effective immediately under the Administrative Procedures Act, pursuant to 5 U.S.C. 553(d).

IV. Regulatory Impact

Under Executive Order 12291, EPA must judge whether a regulation is "major" and therefore subject to the requirement of a Regulatory Impact Analysis. The denial of this petition does not impose an economic burden on

this facility because prior to submission and during the review of the petition, this facility should have handled its waste as hazardous. The denial of the petition means that the petitioner is to continue managing its waste as hazardous in the manner in which it has been doing, economically and otherwise. There is no additional economic impact, therefore, due to today's rule. This rule is not a major regulation, therefore, no Regulatory Impact Analysis is required.

V. Regulatory Flexibility Act

Pursuant to the Regulatory Flexibility Act, 5 U.S.C. 601–612, whenever an agency is required to publish a general notice of rulemaking for any proposed or final rule, it must prepare and make available for public comment a regulatory flexibility analysis, which describes the impact of the rule on small entities (*i.e.*, small businesses, small organizations, and small governmental jurisdictions). The Administrator or delegated representative may certify, however, that the rule will not have a significant economic impact on a substantial number of small entities.

This amendment does not have an adverse economic impact on small entities. The facility included in this notice may be considered a small entity, however, this rule only affects one facility in one industrial segment. The overall impact, therefore, on small entities is small. Accordingly, I hereby certify that this regulation does not have a significant economic impact on a substantial number of small entities. This regulation, therefore, does not require a regulatory flexibility analysis.

VI. Paperwork Reduction Act

Information collection and recordkeeping requirements associated with this final rule have been approved by the Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act of 1980 (Pub. L. 96–511, 44 U.S.C. 3501 *et seq.*) and have been assigned OMB Control Number 2050–0053.

VII. List of Subjects in 40 CFR Part 261

Hazardous materials, Waste treatment and disposal, Recycling.

Authority: Sec. 3001 RCRA, 42 U.S.C. 6921.

Dated: August 6, 1991.

Don R. Clay,

Assistant Administrator, Office of Solid Waste and Emergency Response.

[FR Doc. 91–19786 Filed 8–16–91; 8:45 am]

BILLING CODE 6560–50–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Public Land Order 6869

[OR–943–4214–10; GP1–223; OR–22222(WASH)]

Revocation of the Executive Order Dated May 19, 1913; Washington

AGENCY: Bureau of Land Management, Interior.

ACTION: Public land order.

SUMMARY: This order revokes in its entirety an Executive Order which withdrew 123.08 acres of land for the Bureau of Land Management's Powersite Reserve No. 360. The Bureau of Land Management has determined that the land is no longer needed for the purpose for which it was withdrawn. The land has been conveyed out of United States ownership and will not be restored to surface entry, mining, or mineral leasing.

EFFECTIVE DATE: August 19, 1991.

FOR FURTHER INFORMATION CONTACT: Linda Sullivan, BLM, Oregon State Office, P.O. Box 2965, Portland, Oregon 97208, 503–280–7171.

By virtue of the authority vested in the Secretary of the Interior by section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, it is ordered as follows:

1. The Executive Order dated May 19, 1913, which withdrew the following described land, is hereby revoked in its entirety:

Willamette Meridian

T. 4 N., R. 15 E.,
Sec. 19, fractional NW¼SW¼, SE¼NW¼, and NE¼SW¼.

The area described contains 123.08 acres in Klickitat County.

2. The land has been conveyed out of United States ownership and will not be restored to operation of the public land laws generally, including the mining and mineral leasing laws.

Dave O'Neal,

Assistant Secretary of the Interior.

[FR Doc. 91–19687 Filed 8–16–91; 8:45 am]

BILLING CODE 4310–33–M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 90–105; RM–7165, 7366]

Radio Broadcasting Services; Lonoke, AR; Clarksdale, MS

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document substitutes Channel 292C2 for Channel 292A at Lonoke, Arkansas, and modifies the license of Station KMZX–FM (formerly KWTD–FM) to specify operation on the higher class channel. In addition, this action substitutes Channel 293C2 for Channel 292A at Clarksdale, Mississippi, and modifies the license for Station WAID(FM) to specify operation on the higher class channel. The Notice, as corrected by an Errata, proposed the allotment of Channel 287A for Channel 292A at Clarksdale. See 55 FR 9468, March 14, 1990, and 55 FR 14438, April 18, 1990. However, as a result of a counterproposal, Channel 293C2 was substituted. Channel 292C2 can be allotted to Lonoke in compliance with the Commission's minimum distance separation requirements with a site restriction of 19.7 kilometers (12.3 miles) south. The coordinates for Channel 292C2 at Lonoke are North Latitude 34–37–02 and West Longitude 91–49–22. Channel 293C2 can be allotted to Clarksdale in compliance with the Commission's minimum distance separation requirements with a site restriction of 9.4 kilometers (5.8 miles) northeast. The coordinates for Channel 293C2 are North Latitude 34–14–10 and West Longitude 90–29–02. With this action, this proceeding is terminated.

EFFECTIVE DATE: September 30, 1991.

FOR FURTHER INFORMATION CONTACT: Arthur Scrutchins, Mass Media Bureau, (202) 632–6302.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 90–105, adopted August 7, 1991, and released August 14, 1991. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, Downtown Copy Center, (202) 452–1422, 1714 21st Street, NW., Washington, DC 20036.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

PART 73—[AMENDED]

1. The authority citation for part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Arkansas, is amended by removing Channel 292A and adding Channel 292C2 at Lonoke.

3. Section 73.202(b), the Table of FM Allotments under Mississippi, is amended by removing Channel 292A and adding Channel 293C2 at Clarksdale.

Federal Communications Commission.

Andrew J. Rhodes,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 91-19778 Filed 8-16-91; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 90-580; RM-7503; RM-7658]

Radio Broadcasting Services; Arnold and Dorrington, CA

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document allots FM Channel 291A to Arnold, California, as that community's first local aural transmission service, in lieu of Dorrington, California, as proposed originally, at the request of Matthew J. Cullen. See 55 FR 49542, November 29, 1990. Coordinates for Channel 291A at Arnold are 38-15-20 and 120-21-00. With this action, the proceeding is terminated.

DATES: Effective September 30, 1991. The window period for filing applications for Channel 291A at Arnold, California, will open on October 1, 1991, and close on October 31, 1991.

FOR FURTHER INFORMATION CONTACT: Nancy Joyner, Mass Media Bureau, (202) 634-6530. Questions related to the window application filing process should be addressed to the Audio Services Division, FM Branch, Mass Media Bureau, (202) 634-0394.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 90-580, adopted August 7, 1991, and released August 14, 1991. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, Downtown Copy Center, (202) 452-1422, 1714 21st Street, NW., Washington, DC 20036.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Part 73—[AMENDED]

1. The authority citation for part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under California, is amended by adding Channel 291A, Arnold.

Federal Communications Commission.

Andrew J. Rhodes,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 91-19777 Filed 8-16-91; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 90-309; RM-7097, RM-7310, RM-7488]

Radio Broadcasting Services; Bowdon, Griffin, Hogansville, and Sparta, GA

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document allots Channel 288A to Bowdon, Georgia, at the request of Terry C. Jenks. See 55 FR 26222, June 27, 1990. Channel 288A can be allotted to Bowdon, Georgia, in compliance with the Commission's minimum distance separation requirements with a site restriction of 9.1 kilometers (5.7 miles) southwest, in order to avoid a short-spacing to Station WCHK(FM), Channel 289C2, Canton, Georgia. The coordinates are North Latitude 33-28-54 and West Longitude 85-19-34. This document also denies two conflicting proposals to upgrade stations at Sparta and Griffin, Georgia, because, under the FM allotment priorities, a first local service at Bowdon outweighs the small amount of second aural reception service that would be provided by the upgrades. With this action, this proceeding is terminated.

EFFECTIVE DATE: September 30, 1991; The window period for filing applications will open on October 1, 1991, and close on October 31, 1991.

FOR FURTHER INFORMATION CONTACT: Nancy J. Walls, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 90-309, adopted August 2, 1991, and released August 14, 1991. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, Downtown Copy Center, (202) 452-1422, 1714 21st Street, NW., Washington, DC 20036.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Part 73—[AMENDED]

1. The authority citation for part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Georgia, is amended by adding Channel 288A, Bowdon.

Federal Communications Commission.

Andrew J. Rhodes,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 91-19776 Filed 8-16-91; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 89-137; RM-C005 and RM-6998]

Radio Broadcasting Services; Waseca, MN and Menomonie and Spencer, WI

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document substitutes Channel 221C3 for Channel 221A, Waseca, Minnesota, and modifies the license for Station KOWO-FM to specify operation on the higher class channel. The coordinates for Channel 221C3 are 44-02-45 and 93-23-08. The proposal for Waseca was issued on the Commission's own motion. See 54 FR 26220, June 22, 1989. In response to a counterproposal filed by Phillips Broadcasting Company, we substitute Channel 221C3 for Channel 221A, Menomonie, Wisconsin, and modify the license for Station WMEQ(FM) to specify the higher class channel. The coordinates for Channel 221C3 at

Menomonie are 44–47–00 and 91–45–00. To accommodate the upgrade at Menomonie, we also substitute Channel 222A for Channel 221A, Spencer, Wisconsin, and modify the license for Station WOSX accordingly. The coordinates for Channel 222A are 44–48–35 and 90–21–51. With this action, this proceeding is terminated.

EFFECTIVE DATE: September 30, 1991.

FOR FURTHER INFORMATION CONTACT: Kathleen Scheuerle, Mass Media Bureau, (202) 634–6530.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order, MM Docket No. 89–137, adopted July 31, 1991, and released August 14, 1991. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, Downtown Copy Center, 1714 21st Street, NW., Washington, DC 20036, (202) 452–1422.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

PART 73—[AMENDED]

1. The authority citation for part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Minnesota, is amended by removing Channel 221A and adding Channel 221C3 at Waseca.

3. Section 73.202(b), the Table of FM Allotments under Wisconsin, is amended by removing Channel 221A and adding Channel 221C3 at Menomonie and by removing Channel 221A and adding Channel 222A at Spencer.

Federal Communications Commission.

Andrew J. Rhodes,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 91–19775 Filed 8–16–91; 8:45 am]

BILLING CODE 6712–01–M

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47 CFR Part 76

[MM Docket Nos. 90–4, 84–1296, DA 91–998]

Cable Service; Effective Competition Standard for Cable Basic Service Rates; Correction

AGENCY: Federal Communications Commission.

ACTION: Final rule; correction.

SUMMARY: This action corrects the hours of the Estimated Annual Response contained in the Supplementary Information section of the Commission's **Federal Register** Summary of the Report and Order in MM Docket Nos. 90–4, 84–1296 (56 FR 33387, July 22, 1991, FR Doc. No. 91–171902) concerning the effective competition standard for cable basic service rates. The hours should be corrected as follows: 18 hours and 3 minutes per response; 579,500 hours total.

FOR FURTHER INFORMATION CONTACT: Marcia Glauberman, Mass Media Bureau, Policy and Rules Division, (202) 632–3410.

SUPPLEMENTARY INFORMATION:

Erratum

Released: August 12, 1991

In the matter of Reexamination of the Effective Competition Standard for the Regulation of Cable Television Basic Service Rates and Carriage of Television Broadcast Signals by Cable Television Systems. MM Docket No. 90–4 and MM Docket No. 84–1296.

On July 12, 1991, the Commission released a Report and Order, 56 FR 33387 (July 22, 1991), in the above captioned proceeding. The response and total hours in the Estimated Annual Responses column of the Supplementary Information section in the **Federal Register** Summary of the Report and Order, 56 FR 33388, are incorrect. This column is therefore corrected to read as follows:

Estimated Annual Response: 32,100 responses; 18 hours and 3 minutes per response; 579,500 hours total.

For further information, contact Marcia Glauberman, Mass Media Bureau, Policy and Rules Division, (202) 632–3410.

Federal Communications Commission

William H. Johnson,

Acting Chief, Mass Media Bureau.

[FR Doc. 91–19773 Filed 8–16–91; 8:45 am]

BILLING CODE 6712–01–M

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

49 CFR Part 199

[Docket No. PS–114; Amdts. 190–3, 192–66, 193–7, 195–46, and 199–4]

RIN 2137–AB 77

Amendment of an Operator's Plans or Procedures; Correction

AGENCY: Research and Special Programs Administration (RSPA).

ACTION: Final rule; correction of amendatory instruction.

SUMMARY: This document corrects an amendatory instruction of FR Document 91–16068, published in the **Federal Register** on July 9, 1991, (56 FR 31087). On page 31091, amendatory instruction 15 is changed to read as follows:

"15. Section 199.7 is amended by redesignating paragraphs (a) through (d) as (1) through (4), respectively; designating the introductory text as paragraph (a); and adding paragraph (b) to read as follows:"

EFFECTIVE DATE: August 19, 1991.

FOR FURTHER INFORMATION CONTACT: Cesar DeLeon, Assistant Director for Regulation, Office of Pipeline Safety, Research and Special Programs Administration, 400 Seventh Street, SW., Washington, DC 20590, (202) 366–1640.

(49 App. U.S.C. 1672, 1674a, 1681, 1804, 1808, 2002, and 2040; 49 CFR 1.53)

Issued in Washington, DC, on August 13, 1991.

Travis P. Dungan,

Administrator, Research and Special Programs Administration.

[FR Doc. 91–19580 Filed 8–16–91; 8:45 am]

BILLING CODE 4910–60–M

National Highway Traffic Safety Administration

49 CFR Part 572

[Docket No. 89–11; Notice 02]

RIN 2127–AC10

Anthropomorphic Test Dummies; 9-Month Old Child

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation.

ACTION: Final rule.

SUMMARY: This rule establishes specifications for an anthropomorphic test dummy representing a 9-month old child. The agency has adopted a modified version of the test dummy that was described in the proposal preceding this rule. The test dummy adopted today has the geometry and mass of the proposed dummy, but is not instrumented for measuring inertial forces as had been proposed. NHTSA believes that standardizing the dummy used to represent 9-month old children would enable NHTSA and the child passenger safety community to evaluate those restraints in a fuller and more uniform manner. Adding the dummy to part 572 would be the first step toward using the dummy to test the compliance

of child restraints with Safety Standard 213, Child Restraint Systems. The issue of using the dummy in FMVSS 213 testing will be explored in future rulemaking.

DATES: This rule is effective February 15, 1992.

The incorporation by reference of certain materials listed in the regulation is approved by the Director of the Federal Register as of February 15, 1992.

Petitions for reconsideration must be received by NHTSA not later than 30 days after publication of the rule in the **Federal Register** and should be submitted to: Administrator, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Mr. George Mouchahoir, Office of Vehicle Safety Standards, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590. Telephone: (202) 366–4919.

SUPPLEMENTARY INFORMATION: This notice amends part 572, *Anthropomorphic Test Dummies*, to establish specifications for a dummy representing a 9-month old child. Child test dummies enable NHTSA to dynamically test child restraint systems in a manner that is both measurable and repeatable. The 9-month old dummy would encourage testing of child restraint systems in a standardized manner.

Part 572 currently contains specifications and performance requirements for two child test dummies, a dummy representing a 6-month old child and one representing a 3-year old child. The two dummies are used to evaluate the performance of child restraint systems in dynamic sled tests, and are specifically referenced in Federal Motor Vehicle Safety Standard 213, Child Restraint Systems (49 CFR 571.213) as the test dummies used to test compliance of restraint systems with Standard 213 (§ 571.213, S7.1 and S7.2). The agency has also proposed specifications for a 6-year old child dummy (54 FR 13901; April 6, 1989) for use in evaluating child safety seats, and is developing a proposal for a dummy representing a newborn child. Although Standard 213 currently specifies only the use of the 6-month old and 3-year old child dummies in compliance tests, NHTSA plans to initiate rulemaking that would assess the desirability of amending the standard to use additional dummies as Standard 213 test instruments after NHTSA adds new dummies (in addition to the 9-month old child dummy adopted today) to part 572.

The design drawings, a set of master patterns for all molded and cast parts of the dummy and a users manual for the 9-month old dummy are available for examination in the general reference section of NHTSA docket 89–11. Copies of those materials can be obtained from Rowley-Scher Reprographics, Inc., 1216 K Street NW., Washington, DC 20002, telephone (202) 628–6667. In addition, patterns for all cast and molded parts are available on a loan basis from NHTSA's Office of Vehicle Safety Standards.

Background

In December 1989, the agency published the notice of proposed rulemaking (NPRM) preceding today's final rule. 54 FR 52425; December 21, 1989. The NPRM announced NHTSA's plans to add to part 572 the design and performance specifications for the 9-month old child test dummy manufactured by Instituut voor Wegtransportmiddelen (TNO), Delft, Netherlands, and specified in the United Nations Economic Commission of Europe (ECE) Regulation No. 44. The NPRM explained that the dummy has been used in dynamic compliance tests in ECE member countries since 1981. The notice stated that the dummy weighs approximately 20 pounds, stands 28 inches tall (its sitting height is approximately 17.7 inches), could be instrumented for chest acceleration, is capable of measuring abdominal intrusion, and has an accelerometer mount in the head that is suitable for installation of acceleration sensors. (The notice also stated that the dummy's weight can be adjusted from 20 up to 25 pounds, which is correct, according to TNO's comment on the NPRM. TNO stated that the dummy's weight is not adjustable.)

The agency issued the proposal because NHTSA believed a standardized 9-month old dummy was necessary to obtain information about the performance of restraint systems with a previously-unexamined child occupant age/size group. NHTSA had been particularly concerned about public comments it received in a 1986 rulemaking for Standard 213, in which commenters expressed concerns about the safety of small children in certain booster seats. These booster seats are equipped with a shield for upper torso restraint, and generally provide adequate safety when tested with the NHTSA-specified 3-year old (33 pounds) dummy. However, the commenters said that children smaller than the average 3-year old could "submarine" under the shields (i.e., slide too far downward and forward underneath the shield, legs first), and would be completely unrestrained in a crash. The agency believed that adding a standardized 9-month old dummy to part 572 would facilitate the evaluation of the ability of child safety seats to protect children of varying sizes in weight classes recommended for the restraints, and would be the first step toward using the dummy to test the compliance of child restraints with Standard 213.

NHTSA believed that the TNO dummy had acceptable biofidelity for use as a test dummy. (Biofidelity is a measure of how human-like a test dummy would respond in an impact.) The agency determined that the dummy has accurate anthropometry and mass distribution, which are needed features to simulate the inertial and kinematic responses of a child during sled testing of the seat. NHTSA believed the test dummy could be used to reliably assess the ability of the child restraint system to retain its occupants (including the ability to prevent submarining) and to maintain its structural integrity during dynamic testing.

Moreover, NHTSA believed that an additional asset of the TNO dummy was that it could be instrumented with accelerometers to measure the forces imposed on the dummy during an impact. The ability of a child restraint system to limit the forces experienced by the dummy could assist in the evaluation of the protection that would be afforded a child occupant. The agency believed that the dummy could be properly calibrated to ensure accurate and repeatable results.

NHTSA also believed that adopting the proposed dummy would be cost efficient since the cost of developing a new, alternative test dummy would be substantially reduced or eliminated. In addition, the agency believed adopting the ECE-specified dummy would be consistent with NHTSA's goals of promoting international harmonization to the extent possible.

Comments on the NPRM

The agency received comments on the proposal from Chrysler, Ford, General Motors (GM), Volvo, University of Michigan (UM), Transportation Research Center of Ohio (TRC), TNO and the Insurance Institute for Highway Safety (IIHS). The commenters were divided in their response to the NPRM.

There was universal agreement about the need for a dummy representing a 9-month old child to more fully evaluate the performance of child restraint systems. IIHS stated that child occupant fatalities in passenger vehicles are high despite the increased use of child

restraint systems. (IIHS said children in the birth to 1-year old age range comprised 12 percent (183) of the 1,465 deaths of children 1–12 years old in crashes in 1989.) Commenters also agreed that the proposed dummy had accurate anthropometry and that the dummy would produce reliable and realistic kinematics representative of a 9-month old child.

However, commenters were sharply divided in their responses to the proposed instrumentation of the dummy.

IIHS and UM expressed support for the portions of the proposal relating to the instrumentation of the dummy. IIHS supported adopting an instrumented test dummy because of the information instrumentation would yield about the safety of child restraints. UM stated it has been using the TNO dummy for a year and a half and that the dummy measurements are valuable for assessing and comparing different restraint systems.

On the other hand, several commenters were opposed to or raised concerns about the proposed instrumentation specifications. Ford believed that the dummy would not be able to meet the specification proposed in the NPRM that the mountings to which the acceleration sensors are attached shall have no resonance frequency within a range of three times the frequency range of the applicable channel class (Class 1000). UM raised a question about the proposed calibration procedures for the dummy's thorax, suggesting that the height of the impact point on the sternum was too low. GM raised concerns that the NPRM did not show that the dummy's head and chest impact acceleration responses are biomechanically based. GM said that even if the acceleration measurements provided by the 9-month old dummy are equivalent to responses provided by the 3-year old dummy as the NPRM had stated, "The 3-year-old child dummy's acceleration responses actually have little biomechanical basis." GM suggested NHTSA consider developing a 9-month old dummy based on "scaling of responses * * * from other sized dummies (or other surrogates) that exhibit an established degree of biofidelity." Volvo stated that it does not support adoption of the proposed 9-month old dummy because of reproducibility problems Volvo encountered with the ECE 3-year old dummy. Volvo believed that the 9-month old dummy would perform similarly to the ECE 3-year old dummy because the dummies share the same basic design.

Final rule

The agency has considered each of the comments and has decided to adopt the TNO dummy without the instrumentation that had been proposed. The dummy's dimensional and mass distribution characteristics are the same as those proposed. This rule also contains specifications for adjusting the torque in the dummy's joints to ensure consistent and repeatable rotational motions for the dummy. Data show that head excursion measurements for the TNO dummy had a coefficient of variation of less than 4.5 percent, which is generally considered to be good for repeatability and reproducibility. ("Repeatability and Reproducibility of the TNO P3/4 Dummy in Frontal Impacts," J. Kooi, Report No. 751861070, May 1989.)

NHTSA believes that the dummy will reliably and consistently represent the dynamics of a 9-month old child during simulated impact tests. The dummy will be used to assess the ability of child safety seats to retain a 9-month old child and maintain their structural integrity during dynamic testing. The dummy will also be used to determine the areas of the child seat that are contactable by the dummy's head or torso during dynamic testing (i.e., contactable surfaces), which will provide information on the adequacy of the padding of contactable surfaces and the protrusions from the surfaces.

The agency has decided not to adopt the instrumentation aspects of the NPRM because NHTSA wishes to evaluate further issues related to the dummy's calibration and head and thorax responses. After receiving the comments on the NPRM, the agency undertook a program to obtain information about the issues raised by the commenters. In this verification effort, the agency encountered several problems and difficulties, including the reproducibility of acceleration measurements, and inconsistencies in measurements in the calibration procedure. Some of these difficulties were similar to the ones encountered by some of the commenters (e.g., UM) when they conducted the calibration procedure.

The agency has determined that resolving problems about the instrumentation and calibration of the dummy requires time-consuming testing and follow-up evaluation. Among the topics that the agency wishes to address is the need for and feasibility of developing a simplified calibration procedure instead of the head pendulum procedure described in the NPRM. Further, TNO indicated since publication of the NPRM that it would conduct additional testing of the dummy to evaluate the apparent ambiguities in the calibration procedure.

NHTSA has decided to proceed with adopting the dummy without instrumentation instead of delaying the rulemaking until the instrumentation issues can be resolved. Adoption of the uninstrumented dummy would encourage testing of restraint systems in a standardized manner. The agency will continue to work on resolving the instrumentation issues (e.g., improving repeatability and reproducibility, and simplifying the calibration procedure). To that end, NHTSA plans to publish a supplemental notice about its findings and tentative conclusions concerning those issues.

The agency notes the UM and Volvo reported durability and repairability problems of the TNO dummy. UM said femurs broke as a result of "inappropriate materials and/or heat treatment," and the flesh is not repairable by a heat application. Volvo said polyurethane, the material used in the dummy, is prone to age rapidly if it is not stored in an atmosphere with a humidity of about 95 percent. NHTSA has not experienced any of the problems cited by the commenters in the agency's extensive testing of the dummy. The agency believes the reported durability and repairability problems are more directly related to the maintenance of the test facility and the timely replacement of failed parts, rather than to problems with the dummy itself. However, if NHTSA learns of durability and repairability problems with the dummy, the agency will take appropriate action to address those problems.

Rulemaking Analyses and Notices

Executive Order 12291 (Federal Regulation) and DOT Regulatory Policies and Procedures

NHTSA has considered costs and other factors associated with this rule, and concludes that this rule is neither major within the meaning of Executive Order 12291 nor significant within the meaning of the Department of Transportation's regulatory policies and procedures.

The specifications established by this final rule are intended to facilitate the evaluation of crash protection afforded to children of the height and weight of an average 9-month old. The dummy will provide more relevant data on the potential excursion of restrained children in the 18–25 pound weight range than using any other currently-

specified part 572 dummies in tests. Today's final rule does not require any manufacturer to produce or use the dummy. NHTSA will not use the dummy in Standard 213 compliance testing unless the agency decided to do so after thoroughly evaluating and discussing such use and its costs and other impacts in a separate rulemaking.

The agency estimates that the 9-month old dummy could be manufactured for about $4,500, based on current monetary exchange rates. Since the dummy is designed to be reusable, its cost can be amortized over a number of tests. The basic materials used in the dummy are commercially obtainable. For these reasons, the agency has tentatively determined that the economic effects of the proposed amendments are so minimal that a final regulatory evaluation is not required.

Regulatory Flexibility Act

NHTSA has considered the impact of this rulemaking action under the Regulatory Flexibility Act. I hereby certify that this rule would not have a significant economic impact on a substantial number of small entities. There is only one child anthropomorphic test device developer/manufacturer currently operating in this country. That developer/manufacturer is not involved in the manufacture of dummies of the type and size of the one described in this notice. The dummy adopted today is currently made in the Netherlands. NHTSA anticipates that the number of dummies purchased in the U.S. for the first two years following this rule should not exceed 10 per year. Thereafter, the agency expects only two to four units would be purchased in this country per year. NHTAS believes this number is so small that it would be unlikely that U.S. companies, including small businesses, would find production of this dummy in this country profitable. NHTSA also believes that use of the dummy would not affect the sales or use of other currently-specified part 572 child dummies, since the latter ones would continue to be used in testing child restraint systems. Small organizations and small governmental jurisdictions that deal with automotive child safety will not be significantly affected since the rule will not affect the purchase price of child restraint systems. In view of the above, the agency has not prepared a final regulatory flexibility analysis.

Executive Order 12612

This rule has been analyzed in accordance with the principles and criteria contained in Executive Order 12612, and the agency has determined that this rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

National Environmental Policy Act

NHTSA has analyzed this rulemaking action for the purposes of the National Environmental Policy Act. The agency had determined that implementation of this action would not have any significant impact on the quality of the human environment.

A regulatory information number (RIN) is assigned to each regulatory action listed in the Unified Agenda of Federal Regulations. The Regulatory Information Service Center publishes the Unified Agenda in April and October of each year. The RIN contained in the heading of this document can be used to cross reference this action with the Unified Agenda.

List of Subjects in 49 CFR Part 572

Motor vehicle safety, Incorporation by reference.

In consideration of the foregoing, NHTSA amends 49 CFR part 572 as follows:

PART 572—[AMENDED]

1. The authority citation for part 572 continues to read as follows:

Authority: 15 U.S.C. 1392, 1401, 1403, and 1407; delegation of authority at 49 CFR 1.50.

2. Subparts G, H and I are added and reserved, and a new subpart J consisting of §§ 572.80 through 572.86 would be added to read as follows:

Subpart G—[Reserved]

Subpart H—[Reserved]

Subpart I—[Reserved]

Subpart J—9-Month Old Child

Sec.

Subpart J—9-Month Old Child

§ 572.80 Incorporated materials.

The drawings and specifications referred to in § 572.81(a) that are not set forth in full are hereby incorporated in this part by reference. These materials are thereby made part of this regulation. The Director of the Federal Register approved the materials incorporated by reference in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies of the materials may be obtained from Rowley-Scher Reprographics, Inc., 1216 K Street, NW., Washington, DC 20002, telephone (202) 628–6667. Copies are available for inspection in the general reference section of Docket 89–11, Docket Section, National Highway Traffic Safety Administration, room 5109, 400 Seventh Street, SW., Washington, DC, or at the Office of the Federal Register, 1100 L Street NW., room 8401, Washington, DC.

§ 572.81 General description.

(a) The dummy consists of: (1) The assembly specified in drawing LP 1049/A, March 1979, which is described in its entirety by means of approximately 54 separate drawings and specifications, 1049/1 through 1049/54; and (2) a parts list LP 1049/0 (5 sheets); and, (3) a report entitled, "The TNO P3/4 Child Dummy Users Manual," January 1979, published by Instituut voor Wegtransportmiddelen TNO.

(b) Adjacent dummy segments are joined in a manner such that throughout the range of motion and also under simulated crash-impact conditions there is no contact between metallic elements except for contacts that exist under static conditions.

(c) The structural properties of the dummy are such that the dummy conforms to this part in every respect both before and after being used in dynamic tests such as that specified in Standard No. 213 of this chapter (§ 571.213).

§ 572.82 Head.

The head consists of the assembly shown in drawing LP 1049/A and conforms to each of the applicable drawings listed under LP 1049/0 through 54.

§ 572.83 Head-neck.

The head-neck assembly shown in drawing 1049/A consists of parts specified as items 1 through 16 and in item 56.

§ 572.84 Thorax.

The thorax consists of the part of the torso shown in assembly drawing LP 1049/A and conforms to each of the applicable drawings listed under LP 1049/0 through 54.

§ 572.85 Lumbar spine flexure.

(a) When subjected to continuously applied force in accordance with paragraph (b) of this section, the lumbar spine assembly shall flex by an amount that permits the thoracic spine to rotate from its initial position in accordance with Figure No. 18 of § 572.21 (49 CFR part 572) by 40 degrees at a force level of not less than 18 pounds and not more than 22 pounds, and straighten upon

removal of the force to within 5 degrees of its initial position.

(b) *Test procedure.* (1) The lumbar spine flexure test is conducted on a dummy assembly as shown in drawing LP 1049/A, but with the arms (which consist of parts identified as items 17 through 30) and all head-neck parts (identified as items 1 through 13 and 59 through 63), removed.

(2) With the torso assembled in an upright position, adjust the lumbar cable by tightening the adjustment nut for the lumbar vertebrae until the spring is compressed to ⅔ of its unloaded length.

(3) Position the dummy in an upright seated position on a seat as indicated in Figure No. 18 of § 572.21 (lower legs do not need to be removed, but must be clamped firmly to the seating surface), ensuring that all dummy component surfaces are clean, dry and untreated unless otherwise specified.

(4) Firmly affix the dummy to the seating surface through the pelvis at the hip joints by suitable clamps that also prevent any relative motion with respect to the upper legs during the test in § 572.65(c)(3) of this part. Install a pull attachment at the neck to torso juncture as shown in Figure 18 of § 572.21.

(5) Flex the thorax forward 50 degrees and then rearward as necessary to return it to its initial position.

(6) Apply a forward pull force in the midsagittal plane at the top of the neck adapter so that at 40 degrees of the lumbar spine flexion the applied force is perpendicular to the thoracic spine box. Apply the force at any torso deflection rate between 0.5 and 1.5 degrees per second up to 40 degrees of flexion but no further; maintain 40 degrees of flexion for 10 seconds, and record the highest applied force during that time. Release all force as rapidly as possible and measure the return angle three minutes after release.

§ 572.66 Test conditions and dummy adjustment.

(a) With the complete torso on its back lying on a horizontal surface and the neck assembly mounted and shoulders on the edge of the surface, adjust the neck such that the head bolt is lowered 0.40 ± 0.05 inches (10 ± 1 mm) after a vertically applied load of 11.25 pounds (50 N) applied to the head bolt is released.

(b) With the complete torso on its back with the adjusted neck assembly as specified in § 572.66(a), and lying on a horizontal surface with the shoulders on the edge of the surface, mount the head and tighten the head bolt and nut firmly, with the head in horizontal position. Adjust the head joint at the force between 1–2g, which just supports the head's weight.

(c) Using the procedures described below, limb joints are set at the force between 1–2g, which just supports the limbs' weight when the limbs are extended horizontally forward:

(1) With the complete torso lying with its front down on a horizontal surface, with the hip joint just over the edge of the surface, mount the upper leg and tighten hip joint nut firmly. Adjust the hip joint by releasing the hip joint nut until the upper leg just starts moving.

(2) With the complete torso and upper leg lying with its front up on a horizontal surface, with the knee joint just over the edge of the surface, mount the lower leg and tighten knee joint firmly. Adjust the knee joint by releasing the knee joint nut until the lower leg just starts moving.

(3) With the torso in an upright position, mount the upper arm and tighten firmly the adjustment bolts for the shoulder joint with the upper arm placed in a horizontal position. Adjust the shoulder joint by releasing the shoulder joint nut until the upper arm just starts moving.

(4) With the complete torso in an upright position and upper arm in a vertical position, mount the forearm in a horizontal position and tighten the elbow hinge bolt and nut firmly. Adjust the elbow joint nut until the forearm just starts moving.

(d) With the torso assembled in an upright position, the adjustment nut for the lumbar vertebrae is tightened until the spring is compressed to ⅔ of its unloaded length.

(e) Performance tests are conducted at any temperature from 66 to 78 degrees F and at any relative humidity from 10 percent to 70 percent after exposure of the dummy to these conditions for a period of not less than four hours.

(f) Performance tests of the same component, segment, assembly or fully assembled dummy are separated in time by a period of not less than 20 minutes unless otherwise specified.

(g) Surfaces of the dummy components are not painted except as specified in the part or in drawings incorporated by this part.

Issued on August 6, 1991.

Frederick H. Grubbe,

Acting Deputy Administrator.

[FR Doc. 91–19681 Filed 8–16–91; 8:45 am]

BILLING CODE 4910–59–M

Proposed Rules

Federal Register
Vol. 56, No. 160
Monday, August 19, 1991

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Commodity Credit Corporation

7 CFR Part 1413

Common Provisions for the Wheat, Feed Grains, Cotton, and Rice Programs

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Proposed rule.

SUMMARY: The Food, Agriculture, Conservation, and Trade Act of 1990 amended the Agricultural Act of 1949 (1949 Act) to set forth numerous discretionary provisions which may be implemented by the Commodity Credit Corporation (CCC) with respect to the crops of wheat, feed grains, upland and Extra Long Staple (ELS) cotton, and rice. CCC proposes to make the following program determinations with respect to the price support and production adjustment programs: (a) The percentage of advance deficiency payments; (b) the types of crops which may not be planted on "flexible acreage"; (c) should the targeted option payments (TOP) be implemented; (d) should the planting of designated crops be allowed on up to half of the reduced acreage; (e) should the planting of oats be allowed on wheat and feed grains acreage conservation reserve (ACR); (f) should the planting of conserving crops on ACR be allowed; and (g) whether producers of malting barley should be exempt from complying with the acreage reduction requirements and maintain eligibility for feed grain loans, purchases and payments.

DATES: Comments must be received on or before September 13, 1991, in order to be assured of consideration.

ADDRESSES: Comments should be mailed to Director, Commodity Analysis Division, Agricultural Stabilization and Conservation Service (ASCS), U.S. Department of Agriculture (USDA), room 3741–S, P.O. Box 2415, Washington, DC 20013.

FOR FURTHER INFORMATION CONTACT: Kathryn A. Broussard, Agricultural Economist, Commodity Analysis Division, USDA–ASCS, room 3744–S, P.O. Box 2415, Washington, DC 20013 or call (202) 447–7923.

SUPPLEMENTARY INFORMATION: The Preliminary Regulatory Impact Analysis describing the options considered in developing this proposed determination and the impact of the implementation of each option is available on request from the above-named individual.

This proposed rule has been reviewed under USDA procedures established in accordance with Executive Order 12291 and Departmental Regulation No. 1512–1 and has been designated as "major". It has been determined that these program provisions will result in an annual effect on the economy of $100 million or more.

The titles and numbers of the Federal assistance programs, as found in the catalog of Federal Domestic Assistance, to which this proposed rule applies are as follows:

Titles and Numbers

Commodity Loans and Purchases.....10.051
Cotton Production Stabilization.....10.052
Feed Grains Production Stabilization.....10.055
Wheat Production Stabilization.....10.058
Rice Production Stabilization.....10.065

It has been determined that the Regulatory Flexibility Act is not applicable to this notice since CCC is not required by 5 U.S.C. 553 or any other provision of law to publish a notice of proposed rulemaking with respect to the subject matter of these determinations.

It has been determined by an environmental evaluation that this action will have no significant impact on the quality of human environment. Therefore, neither an environmental assessment nor an Environmental Impact Statement is needed.

This program/activity is not subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with State and local officials. See the Notice related to 7 CFR part 3015, subpart V, published at 48 FR 29115 (June 24, 1983).

Background

This proposed rule would amend 7 CFR part 1413 to set forth the determination of whether certain discretionary provisions of the 1949 Act would be implemented and, if implemented, the manner in which implementation would be made.

Accordingly, the following program determinations are proposed to be made with respect to the provisions that are applicable to the crops of wheat, feed grains, upland and ELS cotton, and rice:

A. The percentage of estimated deficiency payment which should be made available to producers of the 1992–95 crops of wheat, feed grains, upland and ELS cotton, and rice.

Section 114(a)(2)(F) of the 1949 Act requires that advance deficiency payments be made available to producers of wheat, feed grains, upland cotton, and rice whenever an acreage limitation is established. For wheat and feed grains, not less than 40 percent nor more than 50 percent of the projected payment rate shall be made in advance; for upland cotton and rice, not less than 30 percent nor more than 50 percent of the projected payment rate. Section 103(h)(3)(C) of the 1949 Act permits the Secretary to authorize advance deficiency payments to producers of ELS cotton, not to exceed 50 percent of the projected payment rate.

It is proposed that advance deficiency payments for the 1992–95 crops of wheat, feed grains, upland cotton, and rice be 40 percent of the projected payment rate. For ELS cotton, it is proposed that no advance deficiency payments be made unless the Secretary determines that the advance deficiency payment would assist in encouraging program participation and meeting the goals of the ELS program.

B. The types of crop which may not be planted on flexible acres.

Section 504 of the 1949 Act states that producers may plant crops other than the program crop on up to 25 percent of any participating crop acreage base. This acreage is known as "flexible" acreage.

Crops that may be planted on flexible acreage are: (1) Any program crop; (2) any oilseed crop; (3) any other crop, except any fruit or vegetable crop (including potatoes, dry edible beans, lentils and peas). The planting of certain fruits or vegetables may be permitted if such crop is an industrial or experimental crop, or no substantial domestic production or market exists for the crop. The planting of any crop on flexible acres may also be prohibited.

CCC intends to permit the same crops to be grown on flexible acreage in 1992

as were allowed in 1991. However, CCC will consider adding or removing crops to the list of prohibited crops which is set forth at 7 CFR 1413.11(b)(4).

C. Whether the TOP should be implemented.

If an acreage limitation program is in effect for a crop of wheat, feed grains, upland cotton, or rice, sections 107B(e)(3), 105B(e)(3), 103B(e)(3), and 101B(e)(3) of the 1949 Act provide for the Secretary to offer producers the option of increasing or decreasing the acreage reduction level, within certain restrictions, with a corresponding decrease or increase in the target price. The target price may be decreased or increased by not less than 0.5 percent nor more than 1 percent for each percentage point change in the acreage reduction level. The acreage limitation requirement cannot be increased by more than 15 percentage points or above 25 percent total for wheat; more than 10 percentage points or above 20 percent of the total for feed grains; more than 10 percentage points or above 25 percent of the total for cotton; and more than 5 percentage points for rice. The decrease in the acreage limitation requirement for all crops cannot be more than one-half of the announced acreage limitation percentage.

The Secretary shall, to the extent practicable, ensure that the TOP does not have a significant effect on program participation, total production or budget outlays.

It is proposed that this provision not be implemented for the 1992 crops.

D. Whether to permit the planting of designated crops on up to half of the announced acreage reduction.

Sections 107B(e)(2)(F)(i), 105B(e)(2)(F)(i), 103B(e)(2)(F)(i), and 101B(e)(2)(F)(i), of the 1949 Act, with respect to wheat, feed grains, upland cotton, and rice, provide that the Secretary may permit producers to plant a designated crop on not more than one-half of the reduced acreage on the farm.

The designated crops may be: (a) Any oilseed crop; (b) any industrial or experimental crop designated by CCC; and (c) any other crop, except any fruit or vegetable, (including potatoes and dry edible beans) not designated by the Secretary as (i) an industrial or experimental crop; or (ii) a crop for which no substantial domestic production or market exist. In addition, program crops may not be planted on the reduced acreage on the farm.

If producers on a farm elect to plant a designated crop, the amount of deficiency payments that the producers are otherwise eligible to receive shall be reduced, for each acre that is planted to the designated crop, by an amount equal to the deficiency payment that would be made with respect to a number of acres of the crop that the Secretary considers appropriate. Such reductions in deficiency payments must be sufficient to ensure that this provision does not increase CCC outlays.

Comments on whether this provision be implemented for the 1992 crops are requested.

E. Whether to permit the planting of oats on ACR.

In any crop year that it is determined that projected domestic production of oats will not fulfill the projected domestic demand for oats, CCC (a) may provide that acreage designated as ACR under the wheat and feed grains programs may be planted to oats for harvest under sections 107B(e)(8) and 105B(e)(8); (b) may make program benefits (including loans, purchases, and payments) available under the annual program for oats under section 105B of the 1949 Act available to producers with this paragraph; and (c) shall not make program benefits other than the benefits specified in (b) available to producers with respect to acreage planted to oats under this provision.

It is proposed that the planting of oats on wheat and feed grains ACR for harvest not be permitted for the 1992 crops.

F. Wheather to permit conserving crops to be planted on ACR.

Under sections 107B(e)(4)(B)(iii), 105B(e)(4)(B)(iii), 103B(e)(4)(iii), and 101B(e)(4)(B)(iii) of the 1949 Act, with respect to wheat, feed grains, upland cotton, and rice, the producers may be authorized to plant all or any part of the ACR to be planted to sweet sorghum, guar, seasame, castor beans, crambe, plantago ovato, triticale, rye, mung beans, milkweed or other commodity, if the Secretary determines that the production is needed to provide an adequate supply of the commodities, is not likely to increase the cost of the price support program and will not adversely affect farm income.

It is proposed that this provision not be implemented for the 1992 crops.

G. Malting Barley Exemption from Acreage Reduction Requirements.

The Secretary may exempt producers of malting barley, as a condition of eligibility for feed grain loans, purchases and payments, from complying with the acreage reduction requirements.

It is proposed that malting barley not be exempted from the feed grain acreage reduction requirements for the 1992 crop.

Accordingly, comments are requested with respect to these foregoing issues.

List of Subjects in 7 CFR 1413

Cotton, Feed grains, Price support programs, Wheat, Rice.

Accordingly, 7 CFR part 1413 is proposed to be amended as follows:

PART 1413—FEED GRAIN, RICE, UPLAND AND EXTRA LONG STAPLE COTTON, WHEAT AND RELATED PROGRAMS

1. The authority citation for 7 CFR part 1413 continues to read as follows:

Authority: 7 U.S.C. 1308, 1308a, 1309, 1141–2, 1444–2, 1444f, 1445b–3a, 1461–1469; 15 U.S.C. 714b and 714c.

2. Section 1413.11 paragraph (a) is revised to read as follows:

§ 1413.11 Planting flexibility.

(a) With respect to the 1991 through 1995 crop years, producers may plant for harvest on the established crop acreage base a commodity which is other than the program crop for which the crop acreage base was established and received planted and considered planted credit for such program crop as the result of planting such other crop only if CCC has approved the planting of such other crop as provided in this part.

* * * * *

3. Section 1413.54 paragraphs (b) and (c) are revised to read as follows:

§ 1413.54 Acreage reduction program provisions.

* * * * *

(b) Targeted option payments shall not be available with respect to the 1991 and 1992 crops of wheat, feed grains, upland cotton, and rice.

(c) With respect to the 1991 through 1995 crop years, in order to receive feed grain loans, purchases and payments in accordance with this part and part 1421 of this title, producers of malting barley must comply with the acreage reduction program requirements of this part.

* * * * *

4. Section 1413.109 is amended by adding a new paragraph (d) to read as follows:

§ 1413.109 Timing and calculation of deficiency payments.

* * * * *

(d) With respect to the 1991 through 1995 crop years, CCC shall make 40 percent of the projected final deficiency payments made in accordance with § 1413.108 as an advance payment to producers in the manner determined and announced by CCC.

Signed August 12, 1991 at Washington, DC.

John A. Stevenson,

Acting Executive Vice President, Commodity Credit Corporation.

[FR Doc. 91-19718 Filed 8-14-91; 11:07 am]

BILLING CODE 3410-05-M

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

8 CFR Part 204

[INS No. 1421-91]

Petition To Classify Alien as Immediate Relative of a United States Citizen or as a Preference Immigrant

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Proposed rule.

SUMMARY: With the passage of the Immigration Act of 1990 (IMMACT), Public Law 101-649, November 29, 1990, certain family members who were not previously eligible may now qualify for immigration benefits. Section 101 of IMMACT allows certain widows and widowers to apply for immigration benefits on their own behalf, and section 112 provides additional visa numbers for family members of legalized aliens during fiscal years 1992, 1993 and 1994. Although these provisions do not change the process for petitioning for family members, this rule advises qualified widows, widowers and legalized aliens of the provisions of sections 101 and 112 of Public Law 101-649. It also informs them of filing procedures. In addition, the rule amends 8 CFR part 204 by reorganizing the sections for clarity. This rule is necessary to provide United States citizens and lawful permanent residents who file immigrant visa petitions for family members with clear instructions regarding eligibility and proper filing procedures.

DATES: Written comments must be received on or before September 18, 1991.

ADDRESSES: Written comments should be submitted, in triplicate, to the Records Systems Divisions, Director, Policy Directives and Instructions Branch, Immigration and Naturalization Service, room 5304, 425 I Street NW., Washington, DC 20536. Please include INS number 1421-91 on your correspondence to ensure proper and timely handling.

FOR FURTHER INFORMATION CONTACT: Yolanda Sanchez-K. or Rita Boie, Senior Immigration Examiners, Adjudications Branch, Immigration and Naturalization Service, 425 I Street NW., room 7223, Washington, DC 20536, telephone (202) 514-5014.

SUPPLEMENTARY INFORMATION: On November 29, 1990, the Immigration Act of 1990 (IMMACT) was enacted. This Act made massive revisions to existing immigration laws and required similar changes to immigration related regulations. Included in IMMACT are section 112 which extends additional visa numbers to certain family members of legalized aliens during fiscal years 1992 through 1994 and section 101 which classifies a widow or widower of a United States citizen as an immediate relative when certain conditions are met. This proposed rule will explain these changes and inform eligible applicants of the filing requirements.

Since the last major reform of the Immigration and Nationality Act of 1952, as amended, 8 CFR part 204 has undergone numerous revisions and amendments. These changes have not only expanded part 204 but have made it difficult to read and understand for the average reader. The revisions have also made the section difficult to research since the requirements and procedures under certain paragraphs of the law are spread throughout the section. For example, someone wishing to file a petition for a spouse must refer to § 204.1 for procedures, § 204.2 for the required documents and § 204.3 to learn about the final disposition of petitions. This rule reorganizes 8 CFR part 204 so that the basic information for each petition classification is in its own section for easy access. It also includes procedures for implementing sections 101 and 112 of IMMACT.

On June 20, 1991, an interim rule with a 30-day comment period was published in the **Federal Register** at 56 FR 28311 concerning a bona fide marriage exemption for aliens who marry while under deportation or exclusion proceedings. The interim rule revised § 204.1(a)(2)(iii). This proposed rule will redesignate § 204.1(a)(2)(iii) as § 204.2(a)(1)(iii).

Discussion By Section

8 CFR 204.1 provides general information and procedures for filing immigrant visa petitions to classify relatives under the Act. United States citizens, permanent resident aliens, and, in certain cases, other aliens may file petitions to classify relatives for immigrant visa issuance. A fee is required for the filing of each visa petition. Certain preference visas are subject to numerical limitation. The earlier a petition is filed, the sooner a visa can be issued. The filing date, or priority date, is established when a petition is properly filed with the Service. A properly filed petition is one which is received by the Service with correct fee and is signed by the petitioner. A petition denied for improper filing will not establish a priority date for visa issuance. A visa petition for a relative must also be accompanied by initial documentary evidence establishing the United States citizenship or lawful permanent resident status of the petitioner and documentation to establish the claimed relationship. A widow or widower of a United States citizen who is filing on his or her own behalf must provide documentation establishing eligibility and the relationship to the deceased United States citizen. A petition which is submitted without supporting documents will be denied and will not establish a priority date for visa issuance.

The petition must be supported by either original documents or legible, true copies of original documents. When copies are submitted, the Service reserves the right to require submission of original documents. All foreign language documents must be accompanied by an English translation which has been certified by a competent translator. When an interview is required, all original documents must be presented for examination at the interview.

8 CFR 204.2(a) provides for the filing of an immigrant visa petition on behalf of a spouse by a United States citizen or lawful permanent resident. This section also discusses derivative status and sets forth the procedures for the decision on and disposition of the petition. Additionally, it explains section 204(a)(2)(A) of the Act which bars the approval of a spousal petition filed by a permanent resident who gained permanent resident status through a marriage to a United States citizen or permanent resident unless five years has elapsed since the date he or she was granted permanent resident status or the petitioner can establish through clear and convincing evidence that the prior marriage was not for the purpose of evading immigration law. The Service will not approve a petition filed on behalf of an alien who has attempted or conspired to enter into a marriage for the purpose of evading immigration laws.

Section 162(h)(6) of Public Law 101-649 redesignated section 204(h) of the Act as section 204(g). This section bars the approval of a spousal petition filed by a United States citizen or permanent resident based upon a marriage

occurring after November 10, 1986, and while the alien spouse was under deportation or exclusion proceedings unless the alien spouse has resided outside the United States for two years after the marriage. An exemption may be granted if the petitioner establishes through clear and convincing evidence that the marriage was entered into in good faith, and was not for the purpose of procuring the alien spouse's entry as an immigrant.

8 CFR 204.2(b) provides procedures for the filing of a petition by an alien widow or widower for classification as an immediate relative of a United States citizen. Section 101 of IMMACT adds widows and widowers to the definition of an immediate relative in section 201(b)(2)(A)(i) of the Act. The alien widow or widower must have been married to the United States citizen for at least two years at the time of the citizen's death and must file the petition within two years of the citizen's death. The widow or widower of a United States citizen may not be classified as an immediate relative if legally separated from the United States citizen at the time of the citizen's death or if the petitioning alien has remarried. 8 CFR 204.2(b) also sets forth the procedures for the decision on and disposition of the petition. Public Law 101–649 does not provide derivative status as immediate relatives to any children of the widow or widower. Once admitted as a lawful permanent resident, the widow or widower would be eligible to petition for his or her children or unmarried sons or daughters.

8 CFR 204.2(c) provides for the filing of a petition on behalf of a child or an unmarried son or daughter by a United States citizen or permanent resident alien pursuant to sections 201(b) and 203(a)(1), (a)(2) and (a)(3) of the Act. The petition must be accompanied by documentation establishing the claimed relationship, such as a birth or baptismal certificate or adoption decree. Blood testing may be required. This section also discusses derivative status and sets forth the procedures for the decision on and disposition of the petition.

8 CFR 204.2(d) provides for consideration of a second preference petition filed on behalf of a spouse and/or children by a legalized alien under section 203(a)(2) of the Act and section 112 of IMMACT. Immigrant visa numbers will first be considered under section 203(a)(2) of the Act. When this category becomes oversubscribed, immigrant visa issuance will be considered under section 112 of IMMACT. The additional immigrant visa numbers under section 112 of IMMACT will be made available during fiscal years 1992, 1993, and 1994.

8 CFR 204.2(e) provides for the filing of a petition on behalf of a parent by a United States citizen. The petition must be accompanied by documentation etablishing parentage, such as a birth or baptismal certificate or adoption decree. Blood testing may be required. This section also discusses derivative status and sets forth the procedures for the decision on and disposition of the petition.

8 CFR 204.2(f) provides for the filing of a petition on behalf of a brother or sister by a United States citizen. The petition must be accompanied by documentation establishing common parentage, such as a birth or baptismal certificate. Blood testing may be required. This section also discusses derivative status and sets forth the procedures for the decision on and disposition of the petition.

8 CFR 204.2(g) provides for an approved petition to remain valid for the duration of the relationship, unless terminated pursuant to section 203(g) of the Act, revoked pursuant to 8 CFR part 205, or after the petition has been used to gain admission as an immigrant.

8 CFR 204.2(h) provides that a petition approved for a certain immigrant classification may be automatically converted to another classification based upon the change in marital status of the beneficiary, the attainment of age twenty-one by the beneficiary, or the naturalization of the petitioner.

8 CFR 204.3 provides for the filing of an application and petition by a United States citizen and a spouse jointly, or by an unmarried United States citizen who is at least twenty-five years of age on behalf of an orphan pursuant to section 201(b) of the Act. To be eligible as an orphan, the child must be under sixteen years of age, be separated from his or her parents through desertion or death, or have but one parent who is incapable of caring for the child and who signs a written release of the child. Advance processing may begin before a child is identified. The application must be supported by evidence of citizenship of the petitioner(s), marriage certificate and/or divorce decree(s) (if a joint petition/application), fingerprint charts and a home study by an approved agency. Once a favorable determination is made, the advance processing authorization remains valid for twelve months. During this period the petitioner may submit a petition, the child's birth certificate and parent's release, or other documents for final processing..If the required documents are not submitted within twelve months, the application will be deemed abandoned. If a child is identified at the time of filing the petition, all advance processing documents and the child's documents may be submitted for final processing. The application and petition may be filed at a Service office in the United States or abroad, based on the residence of the petitioner(s). A consular officer may accept jurisdiction and complete a final adjudication of the petition if the child resides in a country where there is no Service office and a stateside office of the Service has made a favorable determination concerning an advance processing application. This section also sets forth in procedures for the decision and disposition of applications and petitions.

8 CFR 204.4 provides for the filing of a petition for classification as an Amerasian under Public Law 97–359. For eligibility under this section there must be reason to believe that the alien was born in Korea, Vietnam, Laos, Kampuchea or Thailand after December 31, 1950, and before October 22, 1982, and was fathered by a United States citizen. The petition for classification as an Amerasian may be filed by an alien on his or her own behalf. It may also be filed on the alien's behalf by an individual over eighteen years of age, an emancipated minor, or a corporation incorporated in the United States. Two-stage processing provides for initial submission of evidence of the date of birth, place of birth and parentage of the alien. It also requires an irrevocable release from the child's mother or legal guardian, where the alien is under eighteen years old. The petitioner or sponsor will then have up to one year to submit a home study, affidavit of support, and fingerprints as appropriate, before the petition will be deemed abandoned. One-stage processing provides for the initial submission of all required documentation. Any guarantee of financial support and intent to petition for an Amerasian may be enforced in a civil suit brought by the Attorney General against the sponsor.

In accordance with 5 U.S.C. 605(b), the Commissioner of the Immigration and Naturalization Service certifies that this rule does not have a significant economic impact on a substantial number of small entities. This rule is not considered a major rule within the meaning of section 1(b) of E.O. 12292, nor does this rule have Federalism implications warranting the preparation of a Federalism Assessment in accordance with E.O. 12612.

The information collection requirements contained in this regulation have been cleared by the

Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act. The OMB control numbers for these collections are contained in 8 CFR 299.5.

List of Subjects in 8 CFR Part 204

Administrative practice and procedure, Aliens, Immigration, Reporting and recordkeeping requirements.

Accordingly, INS is proposing to amend part 204 of chapter I of title 8 of the Code of Federal Regulations as follows:

PART 204—IMMIGRANT PETITIONS

1. The title of part 204 is revised as set forth above.

2. The authority citation for part 204 continues to read as follows:

Authority: 8 U.S.C. 1101, 1103, 1151, 1153, 1154, 1182, 1186a, 1255, and 8 CFR part 2.

3. Sections 204.1 through 204.4 are revised to read as follows:

§ 204.1 General information about relative petitions.

(a) *Types of relative petitions.* To accord a classification as an immediate relative under section 201(b) of the Act, or classification as a preference immigrant under section 203(a) of the Act, a Form I–130, Petition for Alien Relative, must be filed. In the case of a widow or widower to accord classification as an immediate relative, a Form I–360, Petition for Amerasian, Widow, or Special Immigrant must be filed. The Form I–130 and Form I–360 petitions are described in § 204.2 of this part, orphan petitions are described in § 204.3 of this part, and Amerasian petitions are described in § 204.4 of this part.

(b) *Filing fee.* Form I–130 must be accompanied by the appropriate fee as required under 8 CFR 103.7(b)(1). Form I–360 must be accompanied by a fee of $75.00.

(c) *Filing date.* The filing date of a petition shall be the date it is properly filed with the appropriate Service office. The filing date is the priority date.

(d) *Proper filing.* A petition shall be considered as properly filed if:

(1) It is signed by the petitioner, and

(2) A fee has been received by the Service office having jurisdiction.

(e) *Jurisdiction*—(1) *Petitioner residing in the United States.* The petition must be filed with the office of the Service having jurisdiction over the place where the petitioner is residing. When the petition is accompanied by an application for adjustment of status, the petition may be filed with the Service office having jurisdiction over the beneficiary's place of residence.

(2) *Petitioner residing abroad.* The Service has overseas offices located in Vienna, Austria; Frankfurt, Federal Republic of Germany; Athens, Greece; Hong Kong; New Delhi, India; Rome, Italy; Nairobi, Kenya; Seoul, Korea; Mexico City, Monterrey, Guadalajara and Tijuana, Mexico; Manila, the Philippines; Panama City, Republic of Panama; Singapore; Bangkok, Thailand; and London, the United Kingdom of Great Britain and Northern Ireland. If the petitioner resides in one of these countries, the petition must be filed with the Service office located in that country. The beneficiary does not have to reside in the same jurisdiction as the petitioner for the Service to accept the petition. The overseas Service officer may accept and adjudicate a petition filed by a petitioner who does not reside within the office's jurisdiction when it is established that emergent or humanitarian reasons for acceptance exist or when it is in the national interest.

(3) *Jurisdiction assumed by United States consular officer.* United States consular officers assigned to visa-issuing posts abroad, except those in countries listed in paragraph (e)(2) of this section, are authorized to accept and approve a relative petition or a petition filed by a widow or widower if the petitioner resides in the area over which the post has jurisdiction, regardless of the beneficiary's residence or physical presence at the time of filing. In emergent or humanitarian cases and cases in the national interest, the United States consular officer may use discretion in accepting a petition filed by a petitioner who does not reside within the consulate's jurisdiction. While consular officers are authorized to approve petitions, they must refer any petition which is not clearly approvable to the appropriate Service office. Consular officers may consult with the appropriate Service office abroad prior to stateside referral, if they deem it necessary.

(f) *Supporting documentation.* (1) Initial documentary evidence consists of those documents which establish the United States citizenship or lawful permanent resident status of the petitioner, and the claimed relationship of the petitioner to the beneficiary. They must be in the form of primary evidence, if available. When it is established that primary evidence is not available, secondary evidence may be accepted.

(2) Original documents or legible, true copies of original documents are acceptable. Although true copies of documents are acceptable, the Service reserves the right to require submission of original documents when deemed necessary. Documentation submitted with the petition will not be returned to the petitioner, except when originals are requested by the Service. If original documents are requested by the Service, they will be returned to the petitioner after a decision has been rendered on the petition. When an interview is required, all original documents must be presented for examination at the interview.

(3) All foreign language documents must be accompanied by an English translation which has been certified by a competent translator.

(4) Any petition which is submitted without initial documentary evidence will be automatically denied. Such denial will terminate the right to the priority date previously established by the filing date. However, the filing of a new petition with fee and required initial documentary evidence will not be prejudiced by such denial.

(5) A motion to reopen a denial for lack of initial evidence will not be considered. An appeal from such a denial may only address whether the petition as originally submitted met the initial evidence requirements.

(g) *Initial evidence of petitioner's United States citizenship or lawful permanent residence*—(1) *Primary evidence.* A petition must be accompanied by one of the following:

(i) Petitioner's birth certificate issued by a civil authority which shows birth in the United States;

(ii) An unexpired United States passport issued initially for a full ten-year period to the petitioner as a citizen of the United States (and not merely as a noncitizen national);

(iii) A statement executed by a United States consular officer certifying the petitioner to be a United States citizen and the bearer of a currently valid United States passport;

(iv) The petitioner's Certificate of Naturalization or Certificate of Citizenship;

(v) Department of State Form FS–240, Report of Birth Abroad of a Citizen of the United States, relating to the petitioner;

(vi) The petitioner's Form I–151 or I–551 Alien Registration Receipt Card, or other proof given by the Service as evidence of lawful permanent residence. The Service will accept copies of Forms I–151 or I–551, Certificate of Naturalization, or Certificate of Citizenship when submitted as evidence of United States citizenship or lawful permanent residence.

(2) *Secondary evidence.* If primary evidence is unobtainable the petitioner must present secondary evidence. Secondary evidence must be supported by a letter from the registrar attesting to the unavailability of the birth record. Secondary evidence may include but is not limited to one or more of the following documents:

(i) A baptismal certificate with the seal of the church, showing the date and place of birth in the United States, and the date of baptism;

(ii) Evidence in the form of affidavits sworn to by persons who were living at the time, and who have personal knowledge of the event to which they attest. The affidavits must contain the affiant's full name and address, date and place of birth, relationship to the parties, if any, and complete details concerning how he or she acquired knowledge of the event;

(iii) Early school records (preferably from the first school) showing the date of admission to the school, the child's date and place of birth, and the name(s) and place(s) of birth of the parent(s);

(iv) Census records showing the name, place of birth, and date of birth or age of the petitioner; or

(v) If it is determined that it would cause the petitioner unusual delay or hardship to obtain documentary proof of birth in the United States, a native-born member of the Armed Forces of the United States who is serving outside the United States may submit a statement from the appropriate authority of the Armed Forces. The statement should attest to the fact that the personnel records of the Armed Forces show the petitioner was born in the United States on a certain date.

(h) *Requests for additional documentation.* When the Service determines that initial evidence is not sufficient, additional evidence will be requested. The petitioner will be given 60 days to present additional evidence, to withdraw the petition, or to request a decision based on the evidence submitted. Failure to respond to a request for additional evidence will result in a decision based on the initial evidence previously submitted.

§ 204.2 Relative petitions.

(a) *Petition for a spouse*—(1) *Eligibility.* A United States citizen or alien admitted for lawful permanent residence may file a petition on behalf of a spouse.

(i) *Marriage within five years of petitioner's obtaining lawful permanent resident status.* (A) A visa petition filed on behalf of an alien by a lawful permanent resident spouse may not be approved if the marriage occurred within five years of the petitioner being accorded the status of lawful permanent resident based upon a prior marriage to a United States citizen or alien lawfully admitted for permanent residence, unless:

(*1*) The petitioner establishes by clear and convincing evidence that the marriage through which the petitioner gained permanent residence was not entered into for the purpose of evading the immigration laws; or

(*2*) The marriage through which the petitioner obtained permanent residence was terminated through death.

(B) *Documentation.* The petitioner should submit as many documents as possible which cover the period of the prior marriage. The types of documentation which may establish that the prior marriage was not entered into for the purpose of circumventing immigration laws include, but are not limited to:

(*1*) Documentation showing joint ownership of property;

(*2*) Lease showing joint tenancy of a common residence;

(*3*) Documentation showing commingling of financial resources;

(*4*) Birth certificate(s) of child(ren) born to the petitioner and prior spouse;

(*5*) Affidavits of third parties having knowledge of the bona fides of the prior marital relationship (Such persons may be required to testify before an immigration officer as to the information contained in the affidavit. Affidavits must be sworn to or affirmed by people who have personal knowledge of the prior marital relationship. Each affidavit must contain the full name and address, date and place of birth of the person making the affidavit and his or her relationship to the petitioner, beneficiary or prior spouse, if any. The affidavit must contain complete information and details explaining how the person acquired his or her knowledge of the prior marriage. Affidavits should be supported, if possible, by one or more types of documentary evidence listed in this paragraph.); or

(*6*) Any other documentation which is relevant to establish that the prior marriage was not entered into in order to evade the immigration laws of the United States.

(C) The burden is upon the petitioner to establish by "clear and convincing evidence" that the prior marriage was not entered into for the purpose of evading the immigration laws. Therefore, failure to meet the "clear and convincing evidence" standard will result in the denial of the petition. Such a denial shall be without prejudice to the filing of a new petition once the petitioner has acquired five years of lawful permanent residence. The director may choose to initiate deportation proceedings based upon information gained through the adjudication of the petition; however, failure to initiate such proceedings shall not establish that the petitioner's prior marriage was not for the purpose of evading immigration laws. Unless the petition is approved, the beneficiary shall not be accorded a filing date within the meaning of section 203(c) of the Act based upon any spousal second preference petition.

(ii) *Fraudulent marriage prohibition.* Section 204(c) of the Act prohibits the approval of a visa petition filed on behalf of an alien who has attempted or conspired to enter into a marriage for the purpose of evading immigration laws. The director will deny any petition for immigrant visa classification filed on behalf of such alien, regardless of whether that alien received a benefit through the attempt or conspiracy. Although it is not necessary that the alien be convicted of, or even prosecuted for, the attempt or conspiracy, the evidence of such attempt or conspiracy must be contained in the alien's file.

(iii) *Marriage during proceedings—general prohibition against approval of visa petition.* A visa petition filed on behalf of an alien by a United States citizen or lawful permanent resident spouse shall not be approved if the marriage creating the relationship occurred on or after November 10, 1986, and while the alien was in deportation or exclusion proceedings, or judicial proceedings relating thereto.

(A) *Commencement of proceedings.* The period during which the alien is in deportation or exclusion proceedings, or judicial proceedings relating thereto commences:

(*1*) With the issuance of the Order to Show Cause and Notice of Hearing (Form I–221) prior to June 20, 1991;

(*2*) With the filing of an Order to Show Cause and Notice of Hearing (Form I–221) issued on or after June 20, 1991 with the Office of the Immigration Judge; or

(*3*) With the issuance of the Notice to Applicant for Admission Detained for Hearing before Immigration Judge (Form I–122).

(B) *Termination of proceedings.* The period during which the alien is in deportation or exclusion proceedings, or judicial proceedings relating thereto terminates:

(*1*) When the alien departs from the United States while an order of deportation is outstanding or before the expiration of the voluntary departure

time granted in connection with an alternate order of deportation under 8 CFR 243.5;

(*2*) When the alien departs from the United States pursuant to an order of exclusion;

(*3*) When the alien is found not to be excludable or deportable from the United States;

(*4*) When the Order to Show Cause is canceled pursuant to 8 CFR 242.7(a);

(*5*) When proceedings are terminated by the immigration judge or the Board of Immigration Appeals; or

(*6*) When a petition for review or an action for habeas corpus is granted by a Federal Court on judicial review.

(C) *Exemptions.* This prohibition shall no longer apply if:

(*1*) The alien is found not to be excludable or deportable from the United States;

(*2*) The Order to Show Cause is canceled pursuant to 8 CFR 242.7(a);

(*3*) Proceedings are terminated by the immigration judge or the Board of Immigration Appeals; or

(*4*) A petition for review or an action for habeas corpus is granted by a Federal Court or judicial review;

(*5*) The alien has resided outside the United States for two or more years following the marriage; or

(*6*) The petitioner establishes eligibility for the bona fide marriage exemption under section 204(g) of the Act by providing clear and convincing evidence that the marriage was entered into in good faith and in accordance with the laws of the place where the marriage took place, was not entered into for the purpose of procuring the alien's entry as an immigrant, and no fee or other consideration was given (other than to an attorney for assistance in preparation of a lawful petition) for the filing of the petition.

(D) *Request for exemption.* No application or fee is required to request an exemption. The request must be made in writing and submitted with the Form I–130, Petition for Alien Relative. The request must state the reason for seeking the exemption and must be supported by documentary evidence establishing eligibility for the exemption.

(E) *Evidence to establish eligibility for the bona fide marriage exemption.* The petitioner should submit as many documents as possible which establish that the marriage was entered into in good faith and not entered into for the purpose of procuring the alien's entry as an immigrant. The types of documents the petitioner shall submit include, but are not limited to:

(*1*) Documentation showing joint ownership of property;

(*2*) Lease showing joint tenancy of a common residence;

(*3*) Documentation showing commingling of financial resources;

(*4*) Birth certificates of children born to the petitioner and beneficiary;

(*5*) Affidavits of third parties having knowledge of the bona fides of the marital relationship (Such persons may be required to testify before an immigration officer as to the information contained in the affidavit. Affidavits must be sworn to or affirmed by people who have personal knowledge of the marital relationship. Each affidavit must contain the full name and address, date and place of birth of the person making the affidavit and his or her relationship to the spouses, if any. The affidavit must contain complete information and details explaining how the person acquired his or her knowledge of the marriage. Affidavits should be supported, if possible, by one or more types of documentary evidence listed in this paragraph); or

(*6*) Other documentation establishing that the marriage was not entered into in order to evade the immigration laws of the United States.

(F) *Decision.* Any petition filed during the prohibited period shall be denied, unless the petitioner establishes eligibility for an exemption from the general prohibition. The petitioner shall be notified in writing of the decision of the director.

(G) *Denials.* The denial of a petition because the marriage took place during the prohibited period shall be without prejudice to the filing of a new petition after the beneficiary has resided outside the United States for the required period of two years following the marriage. The denial shall also be without prejudice to the consideration of a new petition or a motion to reopen the visa petition if deportation or exclusion proceedings are terminated after the denial other than by the beneficiary's departure from the United States. Furthermore, the denial shall be without prejudice to the consideration of a new petition or motion to reopen the visa petition, if the petitioner establishes eligibility for the bona fide marriage exemption contained in this part: *Provided,* That no motion to reopen visa petition proceedings may be accepted if the approval of the motion would result in the beneficiary being accorded a priority date within the meaning of section 203(c) of the Act earlier than November 29, 1990.

(H) *Appeals.* The decision of the Board of Immigration Appeals concerning the denial of a relative visa petition because the petitioner failed to establish eligibility for the bona fide marriage exemption contained in this part will constitute the single level of appellate review established by statute.

(I) *Priority date.* A preference beneficiary shall not be accorded a priority date within the meaning of section 203(c) of the Act based upon any relative petition filed during the prohibited period, unless an exemption contained in this part has been granted. Furthermore, a preference beneficiary shall not be accorded a priority date prior to November 29, 1990, based upon the approval of a request for consideration for the bona fide marriage exemption contained in this part.

(2) *Initial evidence for petition for a spouse.* In addition to evidence of United States citizenship or lawful permanent residence, the petitioner must also include evidence of the claimed relationship. A petition submitted on behalf of a spouse must be accompanied by a certificate of marriage issued by civil authorities, and proof of the legal termination of all previous marriages of both the petitioner and the beneficiary.

(3) *Decision on and disposition of petition.* The approved petition will be forwarded to the consular office as designated by the petitioner, provided that the consular office is an immigrant visa issuing post. If the beneficiary is in the United States and is eligible for adjustment of status under section 245 of the Act, the approved petition will be retained by the Service. If the petition is denied, the petitioner will be notified of the reasons for the denial and of the right to appeal in accordance with the provisions of 8 CFR 3.3.

(4) *Derivative beneficiaries.* No alien may be classified as an immediate relative as defined in section 201(b) of the Act unless he or she is the direct beneficiary of an approved petition for that classification. Therefore, a child of an alien approved for classification as an immediate relative spouse is not eligible for derivative classification and must have a separate petition filed on his or her behalf. A child accompanying or following to join a principal alien under section 203(a)(2) of the Act may be included in the principal alien's second preference visa petition without the filing of a separate petition. The child will be accorded second preference classification and the same priority date as the principal alien. However, if the child reaches age twenty-one prior to the issuance of a visa to the principal alien parent, a separate petition will be required. In such case, the original priority date will be retained if the subsequent petition is filed by the same petitioner. Such retention of priority date will be

accorded only to a son or daughter previously eligible as a derivative child under a second preference spousal petition.

(b) *Petition by widow or widower of a United States citizen*—(1) *Eligibility.* A widow or widower of a United States citizen may file a petition and be classified as an immediate relative under section 201(b) of the Act, if:

(i) He or she had been married for at least two years to a United States citizen at the time of the citizen's death, provided the United States citizen had been a citizen for at least two years at the time of death;

(ii) The petition is filed within two years of the death of the citizen spouse;

(iii) The alien petitioner and the citizen spouse were not legally separated at the time of the citizen's death; and

(iv) The alien spouse has not remarried.

(2) *Initial evidence for petition of widow or widower.* If a petition is submitted by the widow or widower of a deceased United States citizen, it must be accompanied by evidence of citizenship of the United States citizen and primary evidence of the relationship in the form of a marriage certificate issued by civil authorities, proof of the termination of all prior marriages of both husband and wife, and the United States citizen's death certificate issued by civil authorities. If a civil document does not exist, a letter from the appropriate civil authority to that effect and secondary evidence must be submitted. Secondary evidence may include:

(i) Evidence of the marriage or termination of prior marriages such as religious documents, tribal records, census records and affidavits; and

(ii) Evidence of the United States citizen's death such as religious documents, funeral service records, obituaries, and affidavits.

(iii) Affidavits that are submitted as secondary evidence must be sworn to or affirmed by people who have personal knowledge of the event to which they attest. Each affidavit should contain the full name and address, date and place of birth of the person making the affidavit and his or her relationship to the widow or widower. Any such affidavit must contain complete information and details explaining how the knowledge of the event was acquired.

(3) *Decision on and disposition of petition.* The approved petition will be forwarded to the consular office as designated by the petitioner, provided that the consular office is an immigrant visa issuing post. If the widow or widower is in the United States and is eligible for adjustment of status under section 245 of the Act, the approved petitioner will be retained by the Service. If the petition is denied, the widow or widower will be notified of the reasons for the denial and of the right to appeal in accordance with the provisions of 8 CFR 3.3.

(4) *Derivative beneficiaries.* A child or unmarried son or daughter of an alien widow or widower classified as an immediate relative is not eligible for derivative classification as an immediate relative and must have a petition filed on his or her behalf if seeking immigrant classification.

(c) *Petition for a child, son or daughter*—(1) *Eligibility.* A United States citizen may file a petition on behalf of an unmarried child under twenty-one years of age for immediate relative classification under section 201(b) of the Act. A United States citizen may file a petition on behalf of an unmarried son or daughter over twenty-one years of age under section 203(a)(1) or for a married son or daughter for preference classification under section 203(a)(3) of the Act. An alien lawfully admitted for permanent residence may file a petition on behalf of a child or an unmarried son or daughter for preference classification under section 203(a)(2) of the Act.

(2) *Initial evidence for petition for child, son or daughter.* In addition to evidence of United States citizenship or lawful permanent residence, the petitioner must also include evidence of the claimed relationship.

(i) *Primary evidence for a legitimate child, son or daughter.* If a petition is submitted by the mother, the birth certificate of the child showing the mother's name must accompany the petition. If the mother's name on the birth certificate is different from her name on the petition, evidence of the name change must also be submitted. If a petition is submitted by the father, the birth certificate of the child, a marriage certificate of the parents, and proof of legal termination of the parents' prior marriages issued by civil authorities must accompany the petition.

(ii) *Primary evidence for a legitimate child, son or daughter.* A child can be legitimated through the marriage of his or her natural parents, by the laws of the country of the child's birth, or by the laws of the country or state of the father's residence. If the legitimation is based on the natural parents' marriage, such marriage must have taken place while the child was under the age of 18. If the legitimation is based on the laws of the country of the child's birth, the law must have taken effect before the child's eighteenth birthday. If the legitimation is based on the father's residence, the father must have resided, while the child was under 18 years of age, in the country or state which considered the child legitimated. Primary evidence of the relationship should consist of the beneficiary's birth certificate and the parents' marriage certificate or other evidence of legitimation issued by civil authorities.

(iii) *Primary evidence for an illegitimate child, son or daughter.* If a petition is submitted by the mother, the child's birth certificate, issued by civil authorities, showing the mother's name must accompany the petition. If the mother's name on the birth certificate is different from her name on the petition, evidence of the name change must also be submitted. If the petition is submitted by the purported father of a child, son or daughter who was born out of wedlock, the father must show that he is the natural father and that a bona fide parent-child relationship was established when the child, son or daughter was unmarried and under 21 years of age. Such a relationship exists or has existed where the father evinces or has evinced an active concern for the child's support, instruction, and general welfare. Primary evidence to establish that the petitioner is the child's natural father is the beneficiary's birth certificate, issued by civil authorities, showing the father's name. Evidence of a parent/child relationship should establish more than merely a tie by blood. There should be some showing of emotional and/or financial ties or a genuine concern and interest by the father for the child's support, instruction and general welfare. There should be evidence that the father and child actually lived together or that the father held the child out as his own, or that he provided for some or all of the child's needs. The most persuasive evidence for establishing a bona fide parent/child relationship is documentary evidence which was contemporaneous with the events in question and may include: money order receipts or canceled checks showing the father's financial support of the beneficiary; income tax returns; medical or insurance records; school records for the child; correspondence between the parties; or, notarized affidavits of friends, neighbors, school officials, or other knowledgeable associates.

(iv) *Primary evidence for a stepchild.* If a petition is submitted by a stepparent on behalf of a stepchild, stepson, or stepdaughter, the petition must be supported by the child's, son's or daughter's birth certificate, issued by civil authorities, showing the name of

the beneficiary's parent to whom the petitioner is married, a marriage certificate issued by civil authorities which shows that the petitioner and the child's natural parent were married before the stepchild, stepson or stepdaughter reached the age of 18, and evidence of the termination of any prior marriages of the petitioner and the natural parent of the stepchild, stepson or stepdaughter.

(v) *Secondary evidence.* When civil documents do not exist, a letter from civil authorities and secondary evidence in the form of historical evidence must be submitted. Such historical evidence must have been issued contemporaneously with the event which it documents and may consist of, but need not be limited to, medical records, schools records, religious documents, and affidavits. Affidavits must be sworn to by persons who were living at the time, and who have personal knowledge of the event to which they attest. Any such affidavits must contain the affiant's full name and address, date and place of birth, relationship to the party, if any, and complete details concerning how the affiant acquired knowledge of the event.

(vi) *Blood tests.* The director may require that a specific Blood Group Antigen Test be conducted of the beneficiary and the beneficiary's father and mother. If the specific Blood Group Antigen Test is not conclusive and the director determines additional evidence is needed, a Human Leucocyte Antigen (HLA) test may be requested. Tests will be conducted, at the expense of the petitioner or beneficiary, by the United States Public Health Service or by a qualified medical specialist designated by the director. The results of the test should be reported on Form G–620. Refusal to submit to a Specific Blood Group or HLA test when requested may constitute a basis for denial of the petition.

(vii) *Primary evidence for an adopted child, son or daughter.* A petition may be submitted on behalf of an adopted child, son, or daughter by a United States citizen or lawful permanent resident if the adoption took place before the beneficiary's sixteenth birthday, and if the child has been in the legal custody of the adopting parent or parents and has resided with the adopting parent or parents for at least two years. A copy of the adoption decree, issued by the civil authorities, must accompany the petition.

(A) *Legal custody* means the assumption of responsibility for a minor by an adult under the laws of the state in a court of law. This provision requires that a legal process via the courts or other recognized governmental entity take place. If the adopting parent was granted legal custody by the court or recognized governmental entity prior to the adoption, that period may be counted towards fulfilling the two year legal custody requirements, rather than from the date of the adoption decree. However, if custody was not granted prior to the adoption, the adoption decree constitutes legal custody. An informal custodial or guardianship document, such as a sworn affidavit signed before a notary public, is insufficient for this purpose.

(B) Evidence must also be submitted to show that the beneficiary resided with the petitioner for at least two years. Generally, such documentation must establish that the petitioner and the beneficiary resided together in a familial relationship. Evidence of parental control may include, but need not be limited to, evidence that the adoptive parent owns or maintains the property where the child resides and provides financial support and day-to-day supervision. The evidence must clearly establish the physical living arrangements of the adopted child, adoptive parent(s), and the child's natural parents during the period of time in which the adoptive parent seeks to establish compliance with the residence requirement. When the adopted child continues to reside in the same household with the natural parent(s) during the period in which the adoptive parent petitioner seeks to establish his or her compliance with this requirement, the petitioner has the burden of establishing that he or she exercised primary parental control during that period of residence.

(C) Legal custody and residence occurring prior to or after the adoption will satisfy both requirements. Legal custody, like residence, is accounted for in the aggregate. Therefore, a break in legal custody or residence will not affect the time already fulfilled. To meet the definition of child pursuant to sections 101(b)(1)(E) and 101(b)(2) of the Act, the child must be under 16 years of age when the adoption is finalized.

(3) *Decision on and disposition of petition.* The approved petition will be forwarded to the consular office as designated by the petitioner, provided that the consular office is an immigrant visa issuing post. If the beneficiary is in the United States and is eligible for adjustment of status under section 245 of the Act, the approved petition will be retained by the Service. If the petition is denied, the petitioner will be notified of the reasons for the denial and of the right to appeal in accordance with the provisions of 8 CFR 3.3.

(4) *Derivative beneficiaries.* A spouse or child accompanying or following to join a principal alien as used in this section may be accorded the same preference and priority date as the principal alien without the approval of a separate petition. Except, a child of an alien who is approved for classification as an immediate relative is not eligible for derivative classification and must ahve a separate petition approved on his or her behalf.

(d) *Relatives of legalized aliens.* A second preference petition which is filed to accord an alien immigrant classification under section 203(a)(2) of the Act will also be considered for immigrant visa numbers which will be issued during fiscal years 1992, 1993, and 1994 for spouses and children of legalized aliens in accordance with section 112 of the Immigration Act of 1990. To be eligible, the lawful permanent resident alien petitioner must have obtained permanent resident status through legalization under section 245A or section 210 of the Act or section 202 of the Immigration Reform and Control Act of 1986, and the relationship must have existed on the date that the petitioner was admitted to the United States as a lawful permanent resident.

(e) *Petition for a parent*—(1) *Eligibility.* Only a United States citizen who is twenty-one years of age or older may file a petition on behalf of a parent for classification under section 201(b) of the Act.

(2) *Initial evidence for petition for a parent.* In addition to evidence of United States citizenship as listed in § 204.1(g) of this part, the petitioner must also include evidence of the claimed relationship.

(i) *Primary evidence if petitioner is a legitimate son or daughter.* If a petition is submitted on behalf of the mother, the birth certificate of the petitioner showing the mother's name must accompany the petition. If the mother's name on the birth certificate is different from her name on the petition, evidence of the name change must also be submitted. If a petition is submitted on behalf of the father, the birth certificate of the petitioner, a marriage certificate of the parents, and proof of legal termination of the parents' prior marriages issued by civil authorities must accompany the petition.

(ii) *Primary evidence if petitioner is a legitimated son or daughter.* A child can be legitimated through the marriage of his or her natural parents, by the laws of the country of the child's birth, or by the laws of the country or state of the father's residence. If the legitimation is based on the natural parents' marriage,

such marriage must have taken place while the child was under the age of 18. If the legitimation is based on the laws of the country of the child's birth, the law must have taken effect before the child's eighteenth birthday. If based on the father's residence, the father must have resided, while the child was under 18 years of age, in the country or state which considered the child legitimated. Primary evidence of the relationship should consist of the petitioner's birth certificate and the parents' marriage certificate or other evidence of legitimation issued by civil authorities.

(iii) *Primary evidence if the petitioner is an illegitimate son or daughter.* If a petition is submitted on behalf of the mother, the petitioner's birth certificate, issued by civil authorities, showing the mother's name must accompany the petition. If the mother's name on the birth certificate is different from her name on the petition, evidence of the name change must also be submitted. If the petition is submitted on behalf of the purported father of the petitioner, the petitioner must show that the beneficiary is his or her natural father and that a bona fide parent-child relationship was established when the petitioner was unmarried and under 21 years of age. Such a relationship exists or has existed where the father evinces or has evinced an active concern for the child's support, instruction, and general welfare. Primary evidence to establish that the beneficiary is the petitioner's natural father is the petitioner's birth certificate, issued by civil authorities, showing the father's name. Evidence of a parent/child relationship should establish more than merely a tie by blood. There should be some showing of emotional and/or financial ties or a genuine concern and interest by the father for the child's support, instruction and general welfare. There should be evidence that the father and child actually lived together or that the father held the child out as his own, or that he provided for some or all of the child's needs. The most persuasive evidence for establishing a bona fide parent/child relationship is documentary evidence which was contemporaneous with the events in question and may include: Money order receipts or canceled checks showing the father's financial support of the beneficiary; income tax returns; medical or insurance records; school records for the child; correspondence between the parties; or notarized affidavits of friends, neighbors, school officials, or other knowledgeable associates.

(iv) *Primary evidence if petitioner is an adopted son or daughter.* A petition may be submitted for an adoptive parent by a United States citizen or lawful permanent resident if the adoption took place before the petitioner's sixteenth birthay, and if the two year legal custody and residence requirements have been met. A copy of the adoption decree, issued by the civil authorities, must accompany the petition.

(A) *Legal custody* means the assumption of responsibility for a minor by an adult under the laws of the state in a court of law. This provision requires that a legal process via the courts or other recognized governmental entity must take place. If the adopting parent was granted legal custody by the court or recognized governmental entity prior to the adoption, that period may be counted towards fulfilling the two year legal custody requirements, rather than from the date of the adoption decree. However, if custody was not granted prior to the adoption, the adoption decree constitutes legal custody. An informal custodial/guardianship document, such as a sworn affidavit signed before a notary public, is insufficient for this purpose.

(B) Evidence must also be submitted to show that the beneficiary resided with the petitioner for at least two years. Generally, such documentation must establish that the petitioner and the beneficiary resided together in a parental relationship. The evidence must clearly establish the physical living arrangements of the adopted child, adoptive parent(s), and the child's natural parents during the period of time in which the adoptive parent seeks to establish compliance with the residence requirement.

(C) Legal custody and residence occurring prior to or after the adoption will satisfy both requirements. Legal custody, like residence is accounted for in the aggregate. Therefore, a break in legal custody or residence will not affect the time already fulfilled. A child adopted under the age of sixteen years is a "child" for purposes of sections 101(b)(1)(E) and 101(b)(2) of the Act.

(3) *Decision on and disposition of petition.* The approved petition will be forwarded to the consular office as designated by the petitioner, provided that the consular office is an immigrant visa issuing post. If the beneficiary is in the United States and is eligible for adjustment of status under section 245 of the Act, the approved petition will be retained by the Service. If the petition is denied, the petitioner will be notified of the reasons for the denial and of the right to appeal in accordance with the provisions of 8 CFR 3.3.

(4) *Derivative beneficiaries.* A child or a spouse of a principal alien who is approved for classification as an immediate relative is not eligible for derivative classification and must have a separage petition approved on his or her behalf.

(f) *Petition for a brother or sister*—(1) *Eligibility.* Only a United States citizen who is twenty-one years of age or older may file a petition in behalf of a brother or sister for classification under section 203(a)(4) of the Act.

(2) *Initial evidence for petition for brother or sister.* In addition to evidence of United States citizenship, the petitioner must also include evidence of the claimed relationship.

(i) *Primary evidence if the siblings are both legitimate children.* If a sibling relationship is claimed through a common mother, the petition must be supported by a birth certificate of the petitioner and a birth certificate of the beneficiary showing a common mother. If the mother's name on one birth certificate is different from her name on the other birth certificate or on the petition, evidence of the name change must also be submitted. If a sibling relationship is claimed through a common father, the birth certificates of the beneficiary and petitioner, a marriage certificate of the parents, and proof of legal termination of the parents' prior marriage(s) issued by civil authorities must accompany the petition.

(ii) *Primary evidence if either or both siblings are legitimated.* A child can be legitimated through the marriage of his or her natural parents, by the laws of the country of the child's birth, or by the laws of the country or state of the father's residence. If the legitimation is based on the natural parents' marriage, such marriage must have taken place while the child was under the age of 18. If the legitimation is based on the laws of the country of the child's birth, the law must have taken effect before the child's eighteenth birthday. If based on the father's residence, the father must have resided while the child was under eighteen years of age in the country or state which considered the child legitimated. Primary evidence of the relationship should consist of the petitioner' birth certificate, the beneficiary's birth certificate and the parents' marriage certificate or other evidence of legitimation issued by civil authorities.

(iii) *Primary evidence if either sibling is illegitimate.* If one or both siblings is the illegitimate child of a common mother, the siblings' birth certificates, issued by civil authorities, showing the mother's name must accompany the

petition. If the mother's name on either birth certificate is different from her name on the petition, evidence of the name change must also be submitted. If one or both of the siblings is (are) the illegitimate child(ren) of a common father, the petitioner must show that they are the natural children of the father and that a bona fide parent-child relationship was established when the illegitimate child(ren) was (were) unmarried and under 21 years of age. Such a relationship exists or has existed where the father evinces or has evinced an active concern for the child's support, instruction, and general welfare. Primary evidence is the petitioner's and beneficiary's birth certificates, issued by civil authorities, showing the father's name and evidence that the siblings' have or had a bona fide parent/child relationship with the natural father. Evidence of a parent/child relationship should establish more than merely a tie by blood. There should be some showing of emotional and/or financial ties or a genuine concern and interest by the father for the child's support, instruction and general welfare. There should be evidence that the father and child actually lived together or that the father held the child out as his own, or that he provided for some or all of the child's needs. The most persuasive evidence for establishing a bona fide parent/child relationship is documentary evidence which was contemporaneous with the events in question and may include: money order receipts or canceled checks showing the father's financial support of the beneficiary; income tax returns; medical or insurance records; school records for the child; correspondence between the parties; or notarized affidavits of friends, neighbors, school officials, or other knowledgeable associates.

(iv) *Primary evidence for stepsiblings.* If the petition is on behalf of a brother or sister having a common mother, the petition must be supported by the birth certificates of the petitioner and the beneficiary, issued by civil authorities, showing the common mother. If the petiion is on behalf of a brother or sister having a common father, the relationship of both the petitioner and the beneficiary to the father must be established as required in paragraphs (f)(2)(ii) and (f)(2)(iii) of this section. If the petitioner and beneficiary are stepsiblings through the marriages of their common father to different mothers, the marriage certificates of the parents and evidence of the termination of any prior marriages for the parents must be submitted. The marriage certificate must show that the marriage creating the steprelationship occurred while both the petitioner and the beneficiary were under the age of eighteen.

(3) *Decision on and disposition of petition.* The approved petition will be forwarded to the consular office as designated by the petitioner, provided that the consular office is an immigrant visa issuance post. If the beneficiary is in the United States and is eligible for adjustment of status under section 245 of the Act, the approved petition will be retained by the Service. If the petition is denied, the petitioner will be notified of the reasons for the denial and of the right to appeal in accordance with the provisions of 8 CFR 3.3.

(4) *Derivative beneficiaries.* A spouse or a child accompanying or following to join a principal alien as used in this section may be accorded the same preference and priority date as the principal alien without the approval of a separate petition.

(g) *Validity of approved petitions*—(1) *Relative petitions.* Unless terminated pursuant to section 203(g) of the Act or revoked pursuant to Part 205 of this chapter, the approval of a petition to classify an alien as a preference immigrant under paragraphs (a)(1), (a)(2), (a)(3), or (a)(4) of section 203 of the Act, shall remain valid for the duration of the relationship to the petitioner, and petitioner's status, as established in the petition.

(2) *Subsequent petition by same petitioner for same beneficiary.* When a visa petition has been approved, and subsequently a new petition by the same petitioner is approved for the same preference classification in behalf of the same beneficiary, the latter approval shall be regarded as a reaffirmation or reinstatement of the validity of the original petition, except when the original petition has been terminated pursuant to section 203(g) of the Act or revoked pursuant to section 205 of this chapter.

(h) *Automatic conversion of preference classification*— (1) *By change in beneficiary's marital status.* (i) A currently valid petition previously approved to classify the beneficiary as the unmarried son or daughter of a United States citizen under section 203(a)(1) of the Act, shall be regarded as approved for preference status under section 203(a)(3) of the Act as of the date the beneficiary marries. The beneficiary's priority date is the same as the date the petition for classification under section 203(a)(1) of the Act was properly filed.

(ii) A currently valid petition previously approved to classify a child of a United States citizen as an immediate relative under section 201(b) of the Act shall be regarded as approved for preference status under section 203(a)(3) of the Act, as of the date the beneficiary marries. The beneficiary's priority date is the same as the date the petition for 201(b) classification was properly filed.

(iii) A currently valid petition classifying the married son or married daughter of a United States citizen for preference status under section 203(a)(3) of the Act shall, upon legal termination of the beneficiary's marriage, be regarded as approved under section 203(a)(1) of the Act if the beneficiary is over twenty-one years of age. The beneficiary's priority date is the same as the date the petition for classification under section 203(a)(3) of the Act was properly filed. If the beneficiary is under twenty-one years of age, the petition is considered approved for status as an immediate relative under section 201(b) of the Act, as of the date the petition for classification under section 203(a)(3) of the Act was properly filed.

(2) *By the beneficiary's attainment of the age of 21 years.* A currently valid petition classifying the child of a United States citizen as an immediate relative under section 201(b) of the Act shall be regarded as approved for preference status under section 203(a)(1) of the Act, as of the beneficiary's twenty-first birthday. The beneficiary's priority date is the same as the date the petition for section 201(b) classification was filed.

(3) *By the petitioner's naturalization.* Effective upon the date of naturalization of a petitioner who had been lawfully admitted for permanent residence, a currently valid petition according to preference status under section 203(a)(2) of the Act to the petitioner's spouse, and unmarried children under 21 years of age, shall be regarded as approved for immediate relative status under section 201(b) of the Act; a currently valid petition according preference status under section 203(a)(2) of the Act for the unmarried son or daughter over twenty-one years of age, shall be regarded as approved under section 203(a)(1) of the Act. In any case of conversion to classification under section 203(a)(1) of the Act, the beneficiary's priority date is the same as the date the petition for classification under section 203(a)(2) of the Act was properly filed.

§ 204.3 Orphans.

(a) *Eligibility.* An alien is eligible for classification under section 201(b) of the Act, as an orphan if he or she meets the definition of "child" as provided in section 101(b)(1)(F) of the Act. To obtain

immigration benefits on behalf of an orphan, the United States citizen and spouse, if married, must file a Form I–600, Petition to Classify Orphan as an Immediate Relative. In some cases, it may be advantageous for the petitioner(s) to file a Form I–600A, Application for Advance Processing, prior to filing the petition.

(b) *Advance processing.* (1) The prospective petitioner(s) may file a Form I–600A, Application for Advance Processing, when:

(i) A child has not been located and identified;

(ii) The prospective petitioner, and/or spouse if married, is traveling abroad to locate a child for adoption in the United States or to adopt while abroad; or

(iii) The prospective petitioner, and/or spouse if married, is traveling abroad to a country with no Service office to adopt a known child while abroad, or to facilitate the adoption of a known child in the United States, and wants to file a petition, Form I–600, at the American consulate or embassy having jurisdiction over the child's place of residence.

(2) *Filing the application for advance processing.* A United States citizen and spouse, if married, may file Form I–600A. The prospective petitioner(s) must complete the certification on the form. The form must be accompanied by the fee specified in 8 CFR 103.7(b)(1). If the petitioner is married, the petitioner's spouse shall also sign the Form I–600A. If unmarried, the petitioner must be at least twenty-four years of age at the time of filing Form I–600A and at least twenty-five years of age at the time of the child's adoption and the filing of a petition, Form I–600, in behalf of the child.

(3) *Evidence to be furnished with application for advance processing of orphan petition.* An Application for Advance Processing of Orphan Petition, Form I–600A, must be accompanied by:

(i) Two sets of fingerprints on Form FD–258 for the United States citizen petitioner and two sets for the spouse, if married;

(ii) Proof of the prospective petitioner's United States citizenship and age;

(iii) Proof of marriage, in case of a married couple;

(iv) Proof of termination of any prior marriages, if applicable; and

(v) A valid home study as described in paragraph (c)(2)(iii) of this section, if available. If not available, the home study must be submitted within one year from the date of submission of the advance processing application or the application will be considered abandoned.

(4) *Decision and disposition of application for advance processing*—(i) *Favorable determination.* If the district director or officer in charge makes a favorable determination concerning the ability of the adoptive parent or parents to furnish proper care to a beneficiary orphan if admitted to the United States, the district director or officer in charge shall advise the petitioner of the action taken. The district director or officer in charge shall also advise the petitioner: That the advance processing application will be retained for one year from the date of completion of all advance processing; that if a child is not identified to the Service within that year, the application will be considered abandoned; and, that any further proceedings will require the filing of a new advance processing application or an orphan petition.

(ii) *Unfavorable determination on completed advance processing application.* When adverse information about the prospective adoptive parent or parents is developed which indicates that an orphan petition should not be approved because the prospective adoptive parent or parents are unable to furnish proper care to a beneficiary orphan, the district director or officer in charge shall render an unfavorable determination concerning the advance processing application. The district director or officer in charge shall advise the petitioner(s) of the reasons for the unfavorable determination and of the right of appeal in accordance with the provisions of part 103 of this chapter. When an unfavorable determination is made concerning an advance processing application, the fee will not be refunded.

(5) *When a child is identified*—(i) *Pending advance processing.* When a child is identified while an advance processing application is pending, the petitioner(s) shall submit a completed Form I–600 with all documentary evidence relating to the child. A new fee is not required.

(ii) *After advance processing completed.* When a child has been identified after there has been a favorable determination concerning an advance processing application, the petitioner(s) shall submit a completed Form I–600 with all documentary evidence relating to the child. A new fee is not required if the petitioner submits the Form I–600 within one year from the date of completion of all advance processing.

(c) *Petition for Orphan*—(1) *Filing.* A petition for an orphan as defined in section 101(b)(1)(F) of the Act must be filed on a Form I–600, Petition to Classify Orphan as an Immediate Relative, by a United States citizen and spouse, if married. It must identify the child and must be accompanied by the fee required under 8 CFR 103.7(b)(1). If the petitioner is married, the Form I–600 must also be signed by the petitioner's spouse. If unmarried, the petitioner must be at least twenty-five years of age at the time of the adoption and when the petition is filed.

(2) *Evidence required to accompany petition for orphan*—(i) *General.* As used in this part, the term "agency" includes both organizations and individuals, and the term "responsible state agency" means the public adoption agency in any state in the United States authorized by statute or license to perform home studies. A petition filed on behalf of an orphan under § 204.1(b) of this part must be accompanied by:

(A) A valid home study which has been favorably recommended by an agency of the state of the child's proposed residence, or by an agency authorized by the state to conduct such a study, or, in the case of a child adopted abroad, by an appropriate public or a private adoption agency licensed in the United States;

(B) Fingerprints on Form FD–258 of the United States citizen petitioner and spouse, if married;

(C) Evidence of the age and the United States citizenship of the petitioner;

(D) A marriage certificate of the married petitioner and spouse, if married and/or evidence of the termination of any previous marriages, if applicable;

(E) The child's birth certificate, or, if a certificate is not available, other proof of age;

(F) If the child has only one parent, evidence that the sole or surviving parent is incapable of providing for the orphan's care and has irrevocably released the orphan for emigration and adoption;

(G) Death certificate(s) of the child's parent(s), if applicable; and

(H) A certified copy of the adoption decree together with a copy of the certified translation if the child has been adopted abroad.

(ii) A child shall be considered as having a sole maternal parent when it is established that the child is illegitimate and has not acquired a stepparent within the contemplation of section 101(b)(2) of the Act. A child shall be considered as having a surviving parent when it is established that one of the child's parents is living while one is deceased and the child has not acquired a stepparent within the meaning of section 101(b)(2) of the Act. When a child who has a sole or surviving parent has been adopted abroad, the

requirement for an irrevocable release in writing for the child's emigration and adoption shall be considered to have been met if the adoption decree clearly sets forth that the adoptive petitioner and spouse, if married, reside in the United States and that the child's only parent has agreed to release the child for adoption. A child who has been unconditionally abandoned to an orphanage shall be considered as having no parents. However, a child who has been placed temporarily in an orphanage shall not be considered as having been abandoned when the parent or parents intend to retrieve the child; the parent or parents are contributing or attempting to contribute to the child's support; or, the parent or parents otherwise exhibit that they have not terminated their parental obligations to the child. If the child was adopted abroad by an unmarried United States citizen, the latter must have been at least twenty-five years of age at the time the child was adopted; if such adoption was by a married United States citizen, the decree shall show that the adoption was by husband and wife jointly.

(iii) *Valid home study*—(A) *Child coming to the United States for adoption.* A home study for a child to be adopted in the United States is considered to be valid if it contains the following:

(*1*) A factual evaluation of the financial, physical, mental, and moral capabilities of the prospective parent or parents to rear and educate the child properly;

(*2*) A detailed description of the living accommodations where the prospective parent or parents currently reside;

(*3*) A detailed description of the living accommodations in the United States where the child will reside, if known; and

(*4*) A statement or attachment recommending the proposed adoption signed by an official of the responsible state agency in the state of the child's proposed residence, or signed by an official of an agency authorized by that state. When a home study contains a favorable recommendation by an agency claiming to be authorized by the state of the child's proposed residence, it will not be accepted as valid unless the District Director is satisfied that the recommending agency is authorized to conduct the home study. If the recommending agency is a licensed adoption agency, the recommendation shall set forth that it is licensed, the state in which it is licensed, its license number, if any, and the period of validity of its license. The District Director may require such proof of licensure as is deemed necessary. The authorized agency need not be located in the state of the child's proposed residence or anywhere in the United States.

(B) *Child adopted abroad.* A home study for child adopted abroad is considered to be valid if it contains the following:

(*1*) A factual evaluation of the financial, physical, mental, and moral capabilities of the prospective parent or parents to rear and educate the child properly;

(*2*) A detailed description of the living accommodations where the adoptive parent or parents currently reside;

(*3*) A detailed description of the living accommodations in the United States where the child will reside, if known; and,

(*4*) A statement or attachment recommending or approving the adoption signed by an official of an appropriate public or private adoption agency which is licensed in any state in the United States. For purposes of this part, the responsible State agency in any state of the United States shall be considered to be an appropriate public agency which is licensed in the United States. The home study of any agency other than a responsible State agency will not be considered valid unless the District Director is satisfied that the agency is licensed by a state in the United States. The recommendation of such licensed agency shall set forth that it is licensed, the state in which it is licensed, its license number, if any, and the period of validity of its license. The District Director may require such proof of licensure as is deemed necessary. The licensed agency need not be located in the United States.

(C) *Research and preparation of home study.* Research, including invterviewing, and the preparation of the home study may be done by an individual or group in the United States or abroad, approved or authorized by the agency which makes the determination that the home study is favorably recommended.

(3) *Preadoption requirements.* If the orphan is to be adopted in the United States, the petitioner(s) must submit evidence of compliance with the preadoption requirements, if any, of the state of the orphan's proposed residence, except any such requirements that cannot be complied with prior to the child's arrival in the United States. If the child is to be adopted in the United States by an unmarried United States citizen, the petitioner must also establish that adoption by an unmarried person is permitted in the state of the child's proposed residence.

(4) *Beneficiary whose adoption abroad not deemed valid or who is adopted abroad without having been seen and observed.* An orphan whose adoption abroad is determined by the Service to be invalid for benefits under the immigration or nationality laws, or who is adopted abroad without having been personally seen and observed by the petitioner (and by the spouse, if married) prior to or during the adoption proceedings, shall be processed as a child coming to the United States for adoption. Before a petition in behalf of such a child is approved, the petitioner (and spouse, if married) must submit a statement indicating the petitioner's (and, if married, the spouse's) willingness and intent to readopt the child in the United States. Unless the Service has already ascertained from the appropriate state authority that readoption is permissible in that state, the petitioner shall be required to submit evidence in the form of a statement from the court having jurisdiction over adoption, the state department of welfare, or the attorney general of the state, indicating that readoption is permissible. As in the case of a petition for any other orphan coming to the United States for adoption, evidence of compliance with the preadoption requirements, if any, of the state of proposed residence must be submitted. If the child is to be readopted in the United States by an unmarried United States citizen, the petitioner must also establish that adoption by an unmarried person is permitted in the state of the child's proposed residence.

(5) *Preliminary processing of orphan petition without full documentation or home study.* When a child has been identified but the documentary evidence relating to the child or the home study is not yet available, an orphan petition may be filed without such evidence or home study. All other evidence, including the fingerprints, required in paragraph (c)(2) of this section, however, must be submitted. The petition will not be considered properly filed until complete documentary evidence relating to the child and the home study are furnished. If the necessary evidence and home study are not submitted within one year from the date of submission of the petition, the petition will be considered abandoned, and the fee will not be refunded. Any further proceedings will require the filing of a new petition.

(6) *Decision and disposition of petition*—(i) *Favorable determination.* If the district director or officer in charge makes a favorable determination concerning the ability of the adoptive

parent or parents to furnish proper care to a beneficiary orphan if admitted to the United States, the district director or officer in charge shall advise the petitioner of the action taken.

(ii) *Unfavorable determination.* If the petitioner submits a petition, Form I–600, in behalf of a child when there has been an unfavorable determination concerning an advance processing application, the fee specified in 8 CFR 103.7 (b)(1) must be submitted. If the grounds for the unfavorable determination have not been overcome, the district director shall deny the petition.

(d) *Jurisdiction*—(1) *Petitioner residing in the United States.* The petitioner residing in the United States shall file a petition in behalf of a child defined in section 101(b)(1)(F) of the Act or an application for advance processing with the Service office having jurisdiction over the place where the petitioner resides.

(2) *Petitioner residing abroad*—(i) *General.* A petitioner residing outside of the United States shall file an orphan petition or an application for advanced processing with the overseas or stateside office of the Service designated to act on the petition or application. This can be ascertained by consulting an American consulate.

(ii) *Petitioner residing in Canada.* A petitioner residing in Canada shall file an orphan petition or an application for advance processing with the office of the Service having jurisdiction over the place of the child's intended residence in the United States.

(iii) *Petitioner proceeding abroad when a district director at a stateside office has made a favorable determination concerning an application for advance processing*—(A) *Jurisdiction retained by stateside office.* When a district director at a stateside office has made a favorable determination concerning an application for advance processing and an unmarried petitioner, or a married petitioner and/or spouse are traveling abroad to locate or adopt a child, the petition in behalf of the child may be filed at the stateside office if it will facilitate processing the petition.

(B) *Jurisdiction assumed by American consulate or embassy.* In an advance processing case where the petitioner does not wish to have the jurisdiction retained by the stateside Service office, the orphan petition may be filed at the American consulate or embassy having jurisdiction over the place where the child is residing, unless the child is residing in: Austria; Federal Republic of Germany; Greece; Hong Kong; India; Italy; Kenya; Korea; Mexico; the Philippines; Republic of Panama; Singapore; Thailand; or, the United Kingdom of Great Britain and Northern Ireland.

(C) *Authority of consular officers.* An American consular officer is authorized to approve an orphan petition when the district director at a stateside Service office has made a favorable determination concerning an advance processing application; and, the unmarried petitioner or the married petitioner and/or spouse have traveled abroad to locate or adopt a child, or facilitate the adoption in the United States of a known child who resides in a country with no Service office. A consular officer, however, shall refer any petition which is not clearly approvable for a decision by the Service office having jurisdiction over the place where the child is residing. The consular officer's adjudication includes all aspects of eligibility for classification as an orphan under section 101(b)(1)(F) of the Act other than the ability of the prospective adoptive parent or parents to furnish proper care to the beneficiary orphan.

(D) *Jurisdiction assumed by overseas Service office.* If the child is residing in: Austria; Federal Republic of Germany; Greece; Hong Kong; India; Italy; Kenya; Korea; Mexico; the Philippines; Panama City; Singapore; Thailand; or, the United Kingdom of Great Britain and Northern Ireland, the orphan petition may be filed at the overseas Service office having jurisdiction over the child's place of residence.

§ 204.4 Amerasian child of a United States citizen.

(a) *Eligibility.* An alien is eligible for benefits under Public Law 97–359 as the Amerasian child, son or daughter of a United States citizen, if there is reason to believe that the alien was born in Korea, Vietnam, Laos, Kampuchea, or Thailand, after December 31, 1950, and before October 22, 1982, and was fathered by a United States citizen. Such an alien is eligible for classification under section 201(b), 203(a)(1) or 203(a)(3) of the Act as the Amerasian child, son or daughter of a United States citizen, pursuant to section 204(f) of the Act.

(b) *Filing petition.* Any alien claiming to be eligible for benefits as a Public Law 97–359 Amerasian, or any person on the alien's behalf, may file a petition, Form I–360, Petition for Amerasian, Widow, or Special Immigrant. Any person filing the petition must be eighteen years of age or older, or an emancipated minor. In addition, a corporation incorporated in the United States may file the petition on the alien's behalf.

(c) *Jurisdiction.* The petition must be filed with the Service office having jurisdiction over the place of the alien's intended residence in the United States, or with the overseas Service office having jurisdiction over the alien's residence abroad.

(d) *Two-stage processing.*—(1) *Preliminary processing.* Upon initial submission of a petition with the documentary evidence required in paragraph (f)(1) of this section, the director shall adjudicate the petition to determine whether there is reason to believe the beneficiary was fathered by a United States citizen. If the preliminary processing is completed in a satisfactory manner, the director shall advise the petitioner to submit the documentary evidence required in paragraph (f)(1) of this section and the fingerprints of the sponsor on Form FD–258, if not previously submitted. The petitioner must submit all required documents within one year of the date of the request or the petition will be considered abandoned. To reactivate an abandoned petition, the petitioner must submit a new petition, Form I–360, without the previously submitted documentation, to the Service office having jurisdiction over the prior petition.

(2) *Final processing.* Upon submission of the documentary evidence required in paragraph (f)(1) of this section, the director shall complete the adjudication of the petition.

(e) *One-stage processing.* If all documentary evidence required in paragraph (f)(1) of this section is available when the petition is initially filed, the petitioner may submit it at that time. In that case, the director shall consider all evidence without using the two-stage processing procedure required under paragraph (d) of this section.

(f) *Evidence required to accompany petition for an Amerasian child of a United States citizen*—(1) *Two-stage processing of petition.* (1) *Preliminary processing.*

(A) A petition filed by or on behalf of an Amerasian under this section must be accompanied by evidence that the beneficiary was born in Korea, Vietnam, Laos, Kampuchea or Thailand after December 31, 1950, and before October 22, 1982. If the beneficiary was born in Vietnam, the beneficiary's ID card must be submitted, if available. If it is not available, the petitioner must submit an affidavit explaining why the beneficiary's ID card is not available. Evidence that the beneficiary was fathered by a United States citizen must

also be presented. The putative father must have been a United States citizen at the time of the beneficiary's birth, or a United States citizen at the time of his death if his death occurred prior to the beneficiary's birth. It is not required that the name of the father be given. Documents may include, but are not limited to:

(*1*) The beneficiary's birth and baptismal certificates or other religious documents;

(*2*) Local civil records;

(*3*) Affidavits from knowledgeable witnesses;

(*4*) Letters from, or evidence of financial support from the beneficiary's putative father;

(*5*) Photographs of the beneficiary's putative father, especially with the beneficiary; and

(*6*) Evidence of the putative father's United States citizenship.

(B) The beneficiary's photograph must be submitted.

(C) The beneficiary's marriage certificate, if married, and evidence of termination of any previous marriages, if applicable, is required.

(D) If the beneficiary is under eighteen years of age, an irrevocable release in writing for emigration from the beneficiary's mother or legal guardian is necessary. The mother or guardian must authorize the placing agency, or agencies to make necessary decisions for the child's immediate care until the sponsor receives custody. Interim costs incurred are the responsibility of the sponsor. The mother or guardian must show an understanding of the effects of the release and state whether any money was paid or any coercion was used prior to signing the release. The signature of the mother or guardian must be authenticated by the local registrar, the court of minors, or a United States immigration or consular officer. The release must include the mother's or guardian's full name, date and place of birth, and the current or permanent address.

(ii) *Final processing.* (A) If the director notifies the petitioner that all preliminary processing has been completed in a satisfactory manner, the petitioner must then submit Form I–361, Affidavit of Financial Support and Intent to Petition for Legal Custody for Public Law 97–359 Amerasian, executed by the beneficiary's sponsor with the documentary evidence of the sponsor's financial ability as required by that form. If the beneficiary is under eighteen years of age, the sponsor must agree to petition the court having jurisdiction within thirty days of the beneficiary's arrival in the United States, to be awarded legal custody in accordance with the laws of the state where the beneficiary will reside until the beneficiary is eighteen years of age. The term "legal custody" as used in this section means the assumption of responsibility for a minor by an adult under the laws of the state in a court of law. The sponsor must be a United States citizen or lawful permanent resident twenty-one years of age or older who is of good moral character.

(B) Other documents necessary to support the petition are:

(*1*) Evidence of the age of the beneficiary's sponsor;

(*2*) Evidence of United States citizenship, or evidence of the lawful permanent residence of the sponsor as provided in § 204.1(f) of this part; and

(C) If the beneficiary is under eighteen years of age, evidence that a public, private, or state agency licensed in the United States to place children and actively involved, with recent experience, in the intercountry placement of children has arranged the beneficiary's placement in the United States must be provided. Evidence that the sponsor with whom the beneficiary is being placed is able to accept the beneficiary for care in the sponsor's home under the laws of the state of the beneficiary's intended residence must also be provided. The evidence must demonstrate the agency's capability, including financial capability, to arrange the placement, as described in paragraph (f)(1) of this section, directly, or through cooperative agreement, with other suitable provider(s) of service.

(iii) *Arrangements for placement of beneficiary under eighteen years of age.* (A) If the beneficiary is under eighteen years of age, the petitioner must submit evidence of the placement arrangement required in paragraph (f)(1) of this section. A favorable home study of the sponsor is required. The study is to be conducted by an agency in the United States legally authorized to conduct that study. If the sponsor is residing outside the United States, a home study of the sponsor is required. The study must be conducted by an agency legally authorized to conduct home studies in the state of the sponsor's and beneficiary's intended residence in the United States and must be submitted with a favorable recommendation by the agency.

(B) A plan from the agency to provide follow-up services including mediation and counselling is required to ensure that the sponsor and the beneficiary have satisfactorily adjusted to the placement and to determine whether the terms of the sponsorship are being upheld. A report from the agency concerning the placement, including information regarding any family separation or dislocation abroad that results from the placement must also be submitted. In addition, the agency must submit to the Director, Outreach Program, Immigration and Naturalization Service, Washington, DC, within ninety days of each occurrence, reports of any breakdowns in sponsorship that occur, and reports of the steps taken to remedy these breakdowns. The petitioner must also submit a statement from the agency:

(*1*) Indicating that the sponsor, before signing the sponsorship agreement, has been provided a report covering preplacement screening and evaluation, including health evaluation, of the beneficiary;

(*2*) Describing the agency's orientation of both the sponsor and the beneficiary on the legal and cultural aspects of the placement;

(*3*) Describing the initial facilitation of the placement through introduction, translation, and similar services; and

(*4*) Describing the contingency plans to place the beneficiary in another suitable home if the initial placement fails. The new sponsor must execute and submit a Form I–361 to the Service office having jurisdiction over the beneficiary's residence in the United States. The original sponsor nonetheless retains financial responsibility for the beneficiary under the terms of the guarantee of financial support and intent to petition for legal custody which that sponsor executed, unless that responsibility is assumed by a new sponsor. In the event that the new sponsor does not comply with the terms of the new guarantee of financial support and intent to petition for legal custody and if, for any reason, that guarantee is not enforced, the original sponsor again becomes financially responsible for the beneficiary.

(iv) *Fingerprints of sponsor.* The petitioner must submit the fingerprints of the sponsor on Form FD–258. The petitioner may submit Form FD–258 at any time during the processing of the petition. The Form FD–258 must reflect the originating agency (ORI) number, or special office code, relating to the Service office where the petition is filed, if that office has Forms FD–258 with the relating ORI number.

(2) *One-stage processing of petition.* If the petitioner chooses to have the petition processed under the one-stage processing procedure described in paragraph (e) of this section, the petitioner must submit all evidence required by paragraph (f)(1) of this section.

(g) *Decision.* (1) *General.* The director shall notify the petitioner of the decision and, if the peitition is denied, of the reasons for the denial. If the petition is denied, the petitioner may appeal the decision under part 103 of this chapter.

(2) *Denial upon completion of preliminary processing.* The director may deny the petition upon completion of the preliminary processing under paragraph (d) of this section for:

(i) Failure to establish that there is reason to believe the alien was fathered by a United States citizen; or

(ii) Failure to meet the sponsorship requirements if the fingerprints of the sponsor, required in paragraph (f)(1) of this section, were submitted during the preliminary processing, and the completed background check of the sponsor discloses adverse information resulting in a finding that the sponsor is not of good moral character.

(3) *Denial upon completion of final processing.* The director may deny the petition upon completion of final processing if it is determined that the sponsorship requirements, or one or more of the other applicable requirements, have not been met.

(4) *Denial upon completion of one-stage processing.* The director may deny the petition upon completion of all processing if any of the applicable requirements in a case being processed under the one-stage processing described in paragraph (e) of this section are not met.

(h) *Classification of Public Law 97–359, Amerasian.* If the petition is approved the beneficiary is classified as follows:

(1) An unmarried beneficiary under the age of twenty-one is classified as the child of a United States citizen under section 201(b) of the Act;

(2) An unmarried beneficiary twenty-one years of age or older is classified as the unmarried son or daughter of a United States citizen under section 203(a)(1) of the Act; or

(3) A married beneficiary is classified as the married son or daughter of a United States citizen under section 203(a)(3) of the Act.

(i) *Enforcement of affidavit of financial support and intent to petition for legal custody.* A guarantee of financial support and intent to petition for legal custody on Form I–361, may be enforced against the alien's sponsor in a civil suit brought by the Attorney General in the United States District Court for the district in which the sponsor resides, except that the sponsor's estate is not liable under the guarantee, if the sponsor dies or is adjudicated as bankrupt under title 11, United States Code. After admission to the United States, if the beneficiary of a petition requires enforcement of the guarantee of financial support and intent to petition for legal custody executed by the beneficiary's sponsor, the beneficiary may file Form –363, with the Service office having jurisdiction over the beneficiary's residence in the United States. If the beneficiary is under eighteen years of age, any agency or individual (other than the sponsor) having legal custody of the beneficiary, or a legal guardian acting on the alien's behalf may file Form I–363.

Dated: July 30, 1990.

Gene McNary,

Commissioner, Immigration and Naturalization Service.

[FR Doc. 91–19663 Filed 8–16–91; 8:45 am]

BILLING CODE 4410–10–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 89–AEA–04]

Proposed Establishment of Transition Area; Brockport, NY

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Supplemental notice of proposed rulemaking.

SUMMARY: The FAA proposes to establish a 700 foot Transition Area at Brockport, NY, to support the installation of a Nondirectional Radio Beacon (NDB) and accommodate the development of a Standard Instrument Approach Procedure (SIAP) to Runway 10 to the Ledgedale Airpark, Brockport, NY. This notice supercedes the proposal in airspace docket number 89–AEA–04 which was originally issued on January 25, 1990.

DATES: Comments must be reeceived on or before September 25, 1991.

ADDRESSES: Send comments on the rule in triplicate to: Edward R. Trudeau, Manager, System Management Branch, AEA–530, Docket No. 89–AEA–04, F.A.A. Eastern Region, Federal Building #111, John F. Kennedy Int'l Airport, Jamaica, NY 11430.

The official docket may be examined in the Office of the Assistant Chief Counsel, AEA–7, F.A.A. Eastern Region, Federal Building #111, John F. Kennedy International Airport, Jamaica, New York 11430.

An informal docket may also be examined during normal business hours in the System Management Branch, AEA–530, F.A.A. Eastern Region, Federal Building #111, John F. Kennedy International Airport, Jamaica, NY 11403.

FOR FURTHER INFORMATION CONTACT: Mr. Curtis L. Brewington, Airspace Specialist, System Management Branch, AEA–530, F.A.A. Eastern Region, Federal Building #111, John F. Kennedy International Airport, Jamaica, New York 11430; telephone: (718) 917–0857.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particuilarly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy aspects of the proposal. Communications should identify the airspace docket and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 89–AEA–04". The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination in the Rules Docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRMs

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Office of the Assistant Chief Counsel, AEA–7, F.A.A. Eastern Region, Federal Building #111, John F. Kennedy International Airport, Jamaica, NY 11430. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11–2A which described the application procedure.

Background

On January 25, 1990, the FAA published a notice of proposed rulemaking that proposed to establish a 700 foot Transition Area at Brockport, NY (55 FR 6291). The agency received several objections from the aviation community based upon the aircraft flight patterns to Runway 28 at the Ledgedale Airpark, Brockport, NY, interfering with the aircraft traffic patterns established at the Rochester International Airport, Rochester, NY. A new SIAP has been developed to Runway 10 in response to the objections received. This supplemental notice of proposed rulemaking supercedes the proposal in airspace docket number 89–AEA–04 which was previously published in the Federal Register.

The Proposal

The FAA is considering an amendment to §71.181 of part 71 of the Federal Aviation Regulations (14 CFR part 71) to establish a 700 foot Transition Area at Brockport, NY, due to the installation of an NDB and the development of a SIAP to Runway 10 at the Ledgedale Airpark, Brockport, NY. Section 71.181 of part 71 of the Federal Aviation Regulations was republished in Handbook 7400.6G dated September 4, 1990.

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore: (1) Is not a "major rule" under Exeuctive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this proposed rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Aviation, safety, Transition areas.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend part 71 of the Federal Aviation Regulations (14 CFR part 71) as follows:

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

1. The authority citation for part 71 continues to read as follows:

Authority: 49 U.S.C. App. 1348(a), 1354(a), 1510; Executive Order 10854; 49 U.S.C. 106(g) (Revised Pub. L. 97–449, January 12, 1983); 14 CFR 11.69.

§ 71.181 [Amended]

2. Section 71.181 is amended as follows:

Brockport, NY [New]

Ledgedale Airpark, Brockport, NY (lat. 43°10'52" N., long. 77°54'49" W.)
Ledgedale NDB (lat. 43°10'57" N., long. 77°54'31" W.)

That airspace extending upward from 700 feet above the surface within a 7.3-mile radius of the Ledgedale Airpark, Brockport, NY and within 2.9 miles either side of a 272° (T) 281° (M) bearing from the Ledgedale NDB extending from the 7.3-mile radius to 8.1 miles west of the NDB extending from the 7.3-mile radius to 8.1 miles west of the NDB excluding that airspace overlying the Rochester, NY, Transition Area.

Issued in Jamaica, New York, on August 1, 1991.

Gary W. Tucker,

Manager, Air Traffic Division.

[FR Doc. 91–19730 Filed 8–16–91; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 37

[Docket No. RM91–17–000]

Proposed Rulemaking and Request for Comments on Whether the Commission Should Continue, Abolish or Alter the Generic Determination of Rate of Return on Common Equity for Public Utilities

August 13, 1991.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Notice of proposed rulemaking and request for comments.

SUMMARY: The Federal Energy Regulatory Commission (Commission) is instituting an eighth annual proceeding concerning generic determination of the rate of return on common equity for public utilities. The Commission has established a discounted cash flow (DCF) formula to determine the average cost of common equity for the jurisdictional operations of public utilities and a quarterly indexing procedure to calculate benchmark rates of return. In this proceeding, the Commission proposes to determine the growth rate and flotation cost adjustment factors to be used in the quarterly indexing procedure during the year beginning February 1, 1992. The Commission proposes that these benchmark rates of return remain advisory, as were those resulting from the previous seven annual proceedings. In addition, the Commission requests comments on whether parties have found the benchmark rates of return useful or not, and whether the Commission should continue, abolish, or alter the generic determination of rate of return.

DATES: An original and 14 copies of the written comments on this proposed rule must be filed with the Commission by September 23, 1991.

ADDRESSES: All filings should refer to Docket No. RM91–17–000 and should be addressed to: Office of the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426.

FOR FURTHER INFORMATION CONTACT:

Marvin Rosenberg, Office of Economic Policy, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, (202) 208–1283.

Lawrence R. Greenfield, Office of the General Counsel, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, (202) 208–0415.

SUPPLEMENTARY INFORMATION: In addition to publishing the full text of this document in the Federal Register, the Commission also provides all interested persons an opportunity to inspect or copy the contents of this document during normal business hours in room 3308 at the Commission's Headquarters, 941 North Capitol Street, NE., Washington, DC 20426.

The Commission Issuance Posting System (CIPS), an electronic bulletin board service, provides access to the texts of formal documents issued by the Commission. CIPS is available at no charge to the user and may be accessed using a personal computer with a modem by dialing (202) 208–1397. To access CIPS, set your communications software to use 300, 1200 or 2400 baud, full duplex, no parity, 8 data bits, and 1 stop bit. The full text of this notice of proposed rulemaking will be available on CIPS for 10 days from the date of issuance. The complete text on diskette in WordPerfect format may also be purchased from the Commission's copy

contractor, La Dorn Systems Corporation, also located in room 3308, 941 North Capitol Street, NE., Washington, DC 20426.

I. Introduction

The Federal Energy Regulatory Commission (Commission) institutes an eighth annual proceeding concerning generic determination of the rate of return on common equity for public utilities.[1] In addition to requesting comments on the growth rate and flotation cost adjustment, the Commission also requests comments on whether parties have found the benchmark rates of return useful or not, and whether the Commission should continue, abolish, or alter the generic determination of the rate of return.

The Commission has established a discounted cash flow (DCF) formula to determine the average cost of common equity for the jurisdictional operations of public utilities and a quarterly indexing procedure to calculate benchmark rates of return.[2] In this proceeding, the Commission proposes to determine the growth rate [3] and flotation cost adjustment [4] factors to be used in the quarterly indexing procedure during the 12 months beginning February 1, 1992. The Commission proposes that these benchmark rates of return remain advisory, as were those resulting from the previous seven annual proceedings.[5] However, the Commission also requests that parties submit their views as to whether the existence of these benchmark rates of return has been of use in individual cases or otherwise, and whether the Commission should continue, abolish, or alter the generic determination of a rate of return on common equity.

II. Background

Section 205(a) of the Federal Power Act (FPA) requires that all electric rates subject to the jurisdiction of the Commission be "just and reasonable." [6] In the exercise of this statutory responsibility, the Commission seeks to set rates of return on common equity that are fair to both utility ratepayers and utility stockholders. The allowed rate of return is now determined individually for each utility on a case-by-case basis. In July 1984, the Commission adopted procedures for the generic determination of a benchmark rate of return on common equity and for its application in individual cases.[7]

The Commission has conducted seven prior annual proceedings to determine the average cost of common equity for the jurisdictional operations of public utilities and has made those rates advisory. In that advisory status, these benchmark rates of return were intended to provide guidance to parties in individual rate proceedings and to serve as reference points for the Commission in setting allowed rates of return in individual cases.[8]

III. Discussion

The Commission has established a discounted cash flow methodology for estimating the rate of return on common equity. Specifically, that formula is:

$$k = (1 + .5g)\, y + g$$

where:

k = market required rate of return on common equity

y = current dividend yield (current annual dividend rate divided by current market price)

g = expected annual dividend growth rate

(1 + .5g) = dividend adjustment factor for quarterly dividend payments

The dividend yield used in this DCF formula is the median of the dividend yields of those companies that remain in a sample of utilities after application of certain screening criteria. The Commission begins with a group of publicly traded electric utilities or combination companies that meet the following standards:

(1) The utility is predominantly electric;

(2) The stock of the utility is traded on either the New York or American Stock Exchange;

(3) The utility is included in the Utility Compustat II data base; and

(4) The utility is not excluded by the Commission based on a case-by-case determination that its data are unavailable or inappropriate.

The Commission excludes companies from the sample if:

(1) The company's common stock is no longer publicly traded due to merger or other action;

(2) The company has decreased or omitted a common dividend payment in the current or prior three quarters; or

(3) The Commission determines on a case-by-case basis that some other occurrence has caused the dividend yield for that company to be substantially misleading and to bias the resulting quarterly average.

The quarterly dividend yield for each company is computed by dividing the dividend rate by the price. The dividend rate is the "indicated dividend rate," which is the last declared quarterly dividend multiplied by four. The price used in calculating the quarterly dividend yield is the simple average of the three monthly high and low prices for the quarter. The dividend yield used in the quarterly indexing procedure is the average of the two most recent quarterly median yields.

As required by § 37.4 of the Commission's regulations, the Commission is proposing to establish the growth rate and flotation cost adjustment to be used in the quarterly indexing procedure for the 12 months beginning February 1, 1992.

A. Growth Rate

To estimate the expected annual dividend growth rate, the Commission proposes to rely primarily on a fundamental analysis approach as it did

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[1] The annual proceedings were established by Order No. 389, Generic Determination of Rate of Return on Common Equity for Electric Utilities, 49 FR 29,946 (July 25, 1984), FERC Stats. & Regs. Regulations Preambles 1982–1985 ¶ 30,582 (July 18, 1984), *reh'g denied*, Order No. 389–A, 49 FR 46,351 (Nov. 26, 1984), 29 FERC ¶ 61,223 (Nov. 21, 1984).

[2] See Order No. 532, Generic Determination of Rate of Return on Common Equity for Public Utilities, 56 FR 10 (Jan. 2, 1991), III FERC Stats. & Regs. ¶ 30,909 (Dec. 26, 1990). This was the seventh annual proceeding and in it the Commission readopted the DCF formula it had used in the first six annual proceedings.

[3] The growth rate is the expected annual rate of growth of dividends on common stock. The growth rate for the electric utility industry is a factor in the constant growth rate DCF model that the Commission adopted in Order No. 420, see *infra* note 5, to determine the average cost of common equity and to calculate the quarterly benchmark rate of return for public utilities.

[4] Flotation costs include underwriters' compensation and legal and printing fees incurred by utilities when they sell new shares of their common stock. An adjustment for flotation costs is another factor in the formula for calculating the benchmark rate of return.

[5] The first annual proceeding resulted in Order No. 420, 50 FR 21,602 (May 29, 1985), FERC Stats. & Regs. (Regulations Preambles 1982–1985) ¶ 30,644 (May 20, 1985), *reh'g denied*, Order No. 420–A, 50 FR 34,086 (Aug. 23, 1985). The second annual proceeding resulted in order No. 442, 51 FR 343 (Jan. 6, 1986), III FERC Stats. & Regs. ¶ 30,677 (Dec. 26, 1985), *order on reh'g*, Order No. 442–A, 51 FR 22,505 (June 20, 1986), III FERC Stats. & Regs. ¶ 30,702 (June 11, 1986). The third annual proceeding resulted in Order No. 461, 52 FR 11 (Jan. 2, 1987), III FERC Stats. & Regs. ¶ 30,722 (Dec. 24, 1986), *reh'g denied*, Order No. 461–A, 52 FR 5757 (Feb. 26, 1987). The fourth annual proceeding resulted in Order No. 489, 53 FR 3342 (Feb. 5, 1988), III FERC Stats. & Regs. ¶ 30,795 (Jan. 29, 1988), *order on reh'g*, Order No. 489–A, 53 FR 11,991 (Apr. 12, 1988). The fifth annual proceeding resulted in Order No. 510, 53 FR 51,752 (Dec. 23, 1938), III FERC Stats. & Regs. ¶ 30,843 (Dec. 19, 1988). The sixth annual proceeding resulted in Order No. 517, 55 FR 146 (Jan. 3, 1990), III FERC Stats. & Regs. ¶ 30,871 (Dec. 26, 1989). The seventh annual proceeding resulted in Order No. 532, 56 FR 10 (Jan. 2, 1991), III FERC Stats. & Regs. ¶ 30,909 (Dec. 26, 1990).

[6] 16 U.S.C. 824d(a) (1988).

[7] See *supra* note 1.

[8] In Order No. 532, as in its prior orders, the Commission also indicated that all rate case participants, including staff, should evaluate the reasonableness of the applicable benchmark rate of return in light of the special circumstances of the specific utility.

in the most recent annual proceeding.[9] In the fundamental analysis approach, the two underlying components of expected annual dividend growth, growth from retention of earnings and growth from sales of new common stock, are evaluated. Growth from retention of earnings, or internal growth, is a function of the expected earned rate of return on common equity (r) and the expected retention ratio (b). Growth from sales of new common stock, or external growth, is a function of the growth rate in common equity attributable to sales of common stock (s) and the expected price of those sales relative to book value (v). The formula for estimating the growth rate based on this fundamental analysis is $g=br+sv$.

The Commission also proposes to consider other data and methods for estimating the expected growth rate, including a two-stage growth analysis,[10] but primarily as a check on the reasonableness of its growth rate determination based on the fundamental analysis.

B. Flotation Cost Adjustment

Flotation costs are incurred by utilities when they sell new shares of their common stock and include issuance costs, such as underwriters' compensation and legal and printing fees. Although relatively small, flotation costs are not accounted for elsewhere in a company's cost of service and are therefore included in the calculation of the cost of common equity.

The Commission proposes to continue its existing policy on flotation costs by calculating an industry average adjustment to the required rate of return on common equity to compensate utilities for issuance costs only.[11] The Commission proposes to estimate the adjustment to the required rate of return on common equity for flotation costs using the following formula:

$$K^* = \frac{fs}{(1+s)}$$

where:

k^* = flotation cost adjustment to required rate of return

f = industry average flotation cost as a percentage of offering price

s = proportion of new common equity expected to be issued annually to total common equity

This formula determines an increment to the cost of common equity which reflects the average annualized amount of flotation costs incurred by the utility industry.

C. Continuation of Generic Determination of Rate of Return on Common Equity

As noted above, there have been seven prior annual proceedings concerning the Commission's generic determination of the rate of return on common equity for public utilities. During these seven years, parties have had a chance to assess the utility of the resulting benchmark rates of return. The Commission believes that it is time for the Commission itself to assess formally the utility of the resulting benchmark rates of return. Consequently, while the Commission requests comments on, *inter alia*, the growth rate and the flotation cost adjustment to be used for the 12 months beginning February 1, 1992, the Commission specifically requests comments on two additional questions:

(1) Have the benchmark rates of return been of use—or been a hindrance—in individual cases (*i.e.*, in the preparation of rate filings, the preparation of interventions and protests, the conduct of settlement negotiations, or the litigation of an appropriate rate of return on common equity); or otherwise in ways not linked to individual cases?

(2) Should the Commission continue, abolish, or alter the generic determination of a rate of return on common equity for public utilities?

IV. Written Comment Procedure

The Commission invites all interested persons to submit written data, views, and other information concerning the proposals in this Notice. All comments in response to this notice should be submitted to the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426 and should refer to Docket No. RM91–17–000. An original and fourteen copies should be filed with the Commission on or before September 23, 1991.

Written comments will be placed in the Commission's public files and will be available for inspection in the Commission's Public Reference Room, room 3308, 941 North Capitol Street, NE., Washington, DC 20426 during regular business hours.

V. Regulatory Flexibility Act Certification

The Regulatory Flexibility Act [12] requires the Commission to describe the impact that a proposed rule would have on small entities or to certify that the rule will not have a significant economic impact on a substantial number of small entities. Nearly all of the jurisdictional utilities which would be affected by the proposed rule are too large to be considered "small entities" within the meaning of the Act.[13] Accordingly, the Commission certifies that this proposed rule will not have a significant economic impact on a substantial number of small entities.

VI. Environmental Statement

Commission regulations require that an environmental assessment or a environmental impact statement be prepared for a Commission action that may have a significant effect on the human environment.[14] The Commission has categorically excluded certain actions from these requirements as not having a significant effect on the human environment.[15] The Commission has found that matters affecting rates for the purchase or sale of electricity are not major federal actions that have a significant environmental impact.[16] The generic rate of return is a factor to be considered in the determination of electric rates. Thus, no environmental assessment or environmental impact statement is necessary for the requirements of this Notice of Proposed Rulemaking.

VII. Paperwork Reduction Act

The Paperwork Reduction Act [17] and the Office of Management and Budget's (OMB) regulations [18] require that the OMB approve certain information collection requirements imposed by agency rule. The proposed rule in this proceeding does not impose any information collection requirements. Therefore, the Commission is not

[9] See *supra* note 2.

[10] The two-stage growth analysis involves separate evaluation of near-term and long-term growth expectations.

[11] The Commission adopted this flotation cost policy in Order No. 420 and reaffirmed it in Order Nos. 442, 461, 489, 510, 517 and 532.

[12] 5 U.S.C. 601–612 (1988).

[13] The Act defines a "small entity" as a small business, a small not-for-profit enterprise or a small governmental jurisdiction. 5 U.S.C. 601(b) (1988). A "small business" is defined by reference to Section 3 of the Small Business Act, as an enterprise which is "independently owned and operated and which is not dominant in its field of operation." 15 U.S.C. 6.32(a) (1988).

[14] Order No. 486, Regulations Implementing National Environmental Policy Act, 52 FR 47,897 (Dec. 17, 1987), III FERC Stats. & Regs. ¶ 30,783 (Dec. 10, 1987), codified at 18 CFR part 380.

[15] *Id.*, codified at § 380.4.

[16] *Id.*, codified at § 380.4(a)(15).

[17] 44 U.S.C. 3301–3520 (1988).

[18] 5 CFR 1320.13 (1990).

submitting this rule to the OMB for review or approval.

List of Subjects in 18 CFR Part 37

Electric power rates, Electric utilities, Reporting and recordkeeping requirements.

By direction of the Commission. Commissioners Trabandt and Terzic concurred with a separate statement attached.

Lois D. Cashell,

Secretary.

August 9, 1991.

Trabandt and Terzic, Commissioners concurring:

Having long argued against the concept of a generic rate of return for electric utilities, we support the request for comments on its usefulness. This represents a first, although tentative, move toward abolishing the generic rate of return. Rather than crawl, we prefer forthrightly to take that step. We tentatively conclude that the Commission should stop its annual exercise of calculating a nationwide rate of return and put the burden on the commentators to persuade us otherwise. In short, we favor issuing a notice of proposed rulemaking to abolish the generic rate of return. In this opinion we explain why.

Legal and Policy Considerations

The courts have repeatedly emphasized that, in setting rates for regulated utilities, including the rate of return on equity, the Commission must take individual utility considerations into account. Specifically, the cases require the agency to:

(undertake) a reasonable balancing, of the investor interest in maintaining financial integrity and access to capital markets and the consumer interest in being charged (acceptable) rates. Moreover, an order cannot be justified simply by a showing that each of the choices underlying it was reasonable; those choices must add up to a reasonable result.

Jersey Central Power & Light Co. v. *FERC,* 810 F.2d 1168, 1178 (DC Cir. 1987) (en banc) (emphasis added).

In *Jersey Central,* the Commission had applied settled rate policies to the utility. Nevertheless, the court held that the Commission had to consider raising the rate of return to counteract the financial impact of those policies on the company.

Similarly, in *Public Service Commission of New York* v. *FERC (Public Service),* 813 F.2d 448, 465 (D.C. Cir. 1987), the D.C. Circuit vacated the rate of return, even though it fell within the zone of reasonableness. The court held the Commission inadequately explained how certain external events, such as the change in interest rates for Treasury securities, affected investors' perception of the particular company's risk.

True, those decisions do not directly speak to the question whether the Commission may use a generic rate of return as a starting point in individual proceedings. Nevertheless, we glean from the holdings advice to proceed with caution in applying a single rate of return across the board. Indeed, the Commission itself has, at least on the surface, always maintained that the figures constitute advisory, rather than mandatory, generic rates of return. As Shakespeare, however, wrote in Hamlet, there's the rub.

As long as the Commission calculates and publishes, even an "advisory" generic rate of return, the danger lurks that the momentum that drives the exercise will push parties in rate cases beyond what the particular annual notice of the benchmark says the Commission contemplates. For example, in the 1988 version, the:

majority * * * hint(ed) strongly that (it) intend(ed) to take the generic rate of return beyond the advisory stage. Indeed, the order state(d) with certain eloquence, * * * that we have not used the benchmark enough, "the pace of change in long-standing practices and procedures is often slow." * * * The majority encourages parties to make greater use of the benchmark in the future.

Generic Determination of Rate of Return on Common Equity for Public Utilities, FERC Stats. and Regs. ¶30,843 at 31,317 (Regulations and Preambles 1986–1990) (Trabandt, Commissioner, concurring).

In addition, the Commission's experience during all the years it has calculated and published a generic rate of return shows the futility of continuing the exercise. The Commission has never adopted the generic rate of return in any proceeding. Parties to proceedings have hardly ever based their testimony on the benchmark. It also has no use as an opening gambit in negotiations. In fact, the trial staff's first cuts—the "top sheets"—serve as the basis for the settlement discussions that accompany many rate cases.

Furthermore, if parties for their own purposes want to develop a benchmark, they can do so themselves. The formula for calculating the generic rate of return appears in each annual update. By plugging in current numbers, anyone interested in the generic rate of return can come up with the figure. The Commission need not spend its time and money doing that.

In short, while the explanation "it's there" may serve as a reason for climbing challenging mountains, that does not justify continuing to go through the motions of calculating what, at best, amounts to a meaningless number.

Economic Considerations

This notice, as well as the seven previous ones, uses the discounted cash flow (Dcf) method to calculate the benchmark. There are at least two problems inherent in this proposition. First, whether it is possible that any one, simple formula can measure the capital markets' expected return for the industry. Secondly, whether this specific simple formula is by itself, as formulated by the Commission, adequate to the task. The formula proceeds from three basic variables: Stock price, indicated dividend and dividend growth rate Whatever experts may think of the Commission applying it in individual rate cases, see, *e.g., Public Service,* 813 F.2d at 463 n.22, Dcf may not work as well in the context of a composite nationwide determination.

We are also aware that rate of return analysts, including FERC staff, use a variety of rate of return estimation techniques such as comparable earnings and capital asset pricing models, in arriving at their estimates of cost of capital. Thus, to imply, by the publication of a model based on a single technique, that it alone is adequate may be misleading and inaccurate.

Lastly, we reiterate that for the above reasons a generic rate of return is inappropriate and should be abolished. Since the majority will at least consider comments on whether to continue with the generic rate of return, we concur.

Charles A. Trabandt,

Commissioner.

Branko Terzic,

Commissioner.

[FR Doc. 91–19672 Filed 8–16–91; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[PS-7-90]

RIN 1545-A042

Nuclear Decommissioning Fund Qualification Requirements

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document contains proposed regulations relating to the qualification requirements of nuclear decommissioning funds that combine their assets for investment purposes. Final regulations (T.D. 8184), published March 3, 1988, contain the requirement that nuclear decommissioning funds invest directly in permissible assets as well as a provision that permits more than one such fund to combine assets for investment purposes. These proposed regulations describe the types of pooling arrangements that are permissible under the regulations.

DATES: Written comments, requests to appear at a public hearing scheduled for Wednesday, October 2, 1991, at 10 a.m., and outlines of oral comments must be received by October 3, 1991. See notice of hearing published elsewhere in this **Federal Register**.

ADDRESSES: Send comments, requests to appear at a public hearing, and outlines to: Internal Revenue Service, P.O. Box 7604, Ben Franklin Station, Attention: CC:CORP:T:R (PS-7-90), room 5228, Washington, DC 20044. The hearing will be held in room 2615, Internal Revenue Building, 1111 Constitution Avenue, NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Concerning the proposed regulations, Peter C. Friedman of the Office of Assistant Chief Counsel (Passthroughs and Special Industries) at (202) 566-3553 (not a toll-free call). Concerning the hearing, Felicia Daniels, Regulations Unit, at 202-566-3935 (not a toll-free call).

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act

The collection of information contained in this notice of proposed rulemaking has been submitted to the Office of Management and Budget for review in accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. 3504(h)). Comments on the collection of information should be sent to the Office of Management and Budget, Attention: Desk Officer for the Department of the Treasury, Office of Information and Regulatory Affairs, Washington, DC 20503, with copies to the Internal Revenue Service, Attention: IRS Reports Clearance Officer T:FP, Washington, DC 20224.

The collections of information in this regulation are in proposed regulations §§ 1.468A-3(h)(i)(1)(ii)(B) and 1.468A-5(a)(3)(i)(E)(*5*). Electing taxpayers that have obtained a schedule of ruling amounts based on a determination that its master trust is an association taxable as a corporation must, if it changes the terms of the underlying trust agreement or chooses a different form of investment, request a revised schedule of ruling amounts. Also, electing taxpayers that intend to use a master trust or joint investment arrangement must, as part of its request for a schedule of ruling amounts, request a ruling as to whether the arrangement is an association taxable as a corporation.

These estimates are an approximation of the average time expected to be necessary for record maintenance and collection of information. They are based upon such information as is available to the Internal Revenue Service. Individual respondents may require greater or less time, depending on their particular circumstances.

The estimated total annual reporting burden is 600 hours.

The estimated annual reporting burden per respondent varies from 2 to 4 hours, depending on individual circumstances, with an estimated average of 3 hours.

The estimated number of respondents is 200. The estimated annual frequency of responses is 1.

Background

This document contains proposed amendments to the Income Tax Regulations (26 CFR part 1) to provide rules under section 468A of the Internal Revenue Code of 1986. Section 468A, relating to nuclear decommissioning costs, was added to the Code by section 91(c) of the Tax Reform Act of 1984 (Pub. L. 98-369, 98 Stat. 609).

Section 468A provides special rules pursuant to which a taxpayer is allowed a deduction for the tax year in which the taxpayer makes a contribution to a qualified nuclear decommissioning fund, notwithstanding the fact that economic performance with respect to the nuclear decommissioning costs will occur in a later tax year. Section 468A outlines rules governing the treatment of a qualified nuclear decommissioning fund and contributions to such a fund.

Section 468A(e)(4) provides that the fund must be used exclusively for (A) satisfying, in whole or in part, any liability of any person that contributes to the fund for the decommissioning of a nuclear power plant; (B) payment of administrative costs of the fund; and (C) to the extent not currently used for the purposes set forth in paragraphs (A) and (B), making investments described in section 501(c)(21)(B)(ii).

Section 1.468A-5(a)(3)(i)(C) of the regulations describes the investments listed in section 501(c)(21)(B)(ii) of the Code as direct investments in public debt securities of the United States, obligations of a State or local government that are not in default as to principal or interest, or time or demand deposits in a bank or insured credit union. Section 1.468A-5(a)(1)(i) requires that each qualified nuclear decommissioning fund be established as a trust under State law. Section 1.468A-5(a)(1)(iii) provides that the assets of two or more qualified nuclear decommissioning funds may be pooled for investment purposes. Section 1.468A-5(a)(1)(iv) provides similar rules for the pooling of assets for investment purposes of nonqualified nuclear decommissioning funds with one or more qualified nuclear decommissioning funds.

The regulations under section 468A are silent as to what methods of pooling of assets are permissible. These proposed amendments to the regulations will clarify the permissible methods for pooling assets for investment purposes.

An earlier version of these proposed regulations appeared in the **Federal Register** on June 28, 1990 (55 FR 26460). These earlier proposed regulations, which were proposed to be effective as of July 18, 1984, have been extensively revised by the proposed regulations in this document as a result of public comments received. These regulations are proposed to be effective 180 days after issuance as final regulations.

Explanation of Provisions

The proposed regulations apply to any pooling of the assets of more than one qualified nuclear decommissioning fund, as well as the pooling of one or more qualified nuclear decommissioning funds with one or more nonqualified nuclear decommissioning funds.

The earlier proposed regulations provided that the pooling of assets for investment purposes in a regulated investment company as defined in section 851 or a common trust fund as defined in section 584 would satisfy the direct investment requirement if certain conditions were satisfied. In response to comments received, this list of permissible pooling vehicles has been expanded to include a partnership as defined in section 761 (whether or not an election has been made to exclude the partnership from the application of

subchapter K of the Code) and a master trust arrangement as defined in these proposed regulations (whether classified as a partnership or as an association). In addition, these proposed regulations clarify that the investment of the assets of two or more nuclear decommissioning funds through an arrangement that does not constitute a separate entity for tax purposes does not violate the direct investment requirement.

Public comments received in response to the originally published notice of proposed rulemaking framed three basic issues—(1) the limitation on permissible investors in regulated investment companies and common trust funds; (2) the failure to include master trust arrangements as permissible investment vehicles; and (3) the retroactive application of the proposed regulations and the absence of transitional rules.

First, a number of commentators objected to the limitation that investors in regulated investment companies and common trust funds could be qualified and nonqualified nuclear decommissioning funds. These commentators felt that this restriction would make it difficult for investors to take advantage of these investment vehicles given the requirements for establishing regulated investment companies under section 851 and common trust funds under section 584. Therefore, these proposed regulations remove the restriction that investors in regulated investment companies and common trust funds be only qualified and nonqualified nuclear decommissioning funds. These proposed regulations, however, do not alter the requirement that the regulated investment company or common trust fund invest only in permissible assets.

Second, a number of commentators objected to the fact that the regulations did not permit investments through master trust arrangements. These commentators felt that master trust arrangements are the most efficient means of investing nuclear decommissioning funds. Moreover, commentators expressed views that master trust arrangements either do not create separate entities for tax purposes or do not create entities that should be treated as associations.

The Internal Revenue Code and regulations prescribe certain categories into which organizations fall for purposes of federal taxation. Included in these categories under § 301.7701–1(b) are associations (taxable as corporations), partnerships, and trusts. The standards to apply in classifying an organization are set forth in §§ 301.7701–2 through 301.7701–4.

In the view of the Internal Revenue Service, certain master trust arrangements may constitute entities classifiable as associations taxable as corporations. The corporate tax payable on the income earned through these arrangements could deplete the assets of participating nuclear decommissioning funds and impair their ability to achieve the purpose for which they were created. Accordingly, the proposed regulations also require that if a taxpayer intends to use a master trust arrangement the taxpayer must, along with its request for a schedule of ruling amounts, request and receive from the Service a ruling on whether the arrangement is an association taxable as a corporation. This requirement applies to all requests for an initial or revised schedule of ruling amounts filed on or after 180 days following the issuance of these proposed regulations as final regulations. A similar requirement applies to any joint investment arrangement, regardless of its status under applicable state law, that the taxpayer asserts is not a separate entity for tax purposes.

Because the March 3, 1988 regulations (T.D. 8184) may have implied that nuclear decommissioning funds could pool their assets without violating the direct investment requirement or creating a separate taxable entity, a number of commentators objected to the application of the earlier proposed regulations issued on June 28, 1990, retroactively to July 18, 1984. In response to those comments, these proposed regulations are proposed to be effective 180 days after their promulgation as final regulations. Moreover, for tax years beginning prior to that date, the Service will not assert that master trust arrangements, used to pool the assets of nuclear decommissioning funds for investment purposes, are associations taxable as corporations.

Special Analysis

It has been determined that these proposed rules are not major rules as defined in Executive Order 12291. Therefore, a Regulatory Impact Analysis is not required. It has also been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) and the Regulatory Flexibility Act (5 U.S.C. chapter 6) do not apply to these regulations, and, therefore, an initial Regulatory Flexibility Analysis is not required. Pursuant to section 7805(f) of the Code, the rules proposed in this document will be submitted to the Administrator of the Small Business Administration for comment on their impact on small business.

Comments and Requests for a Public Hearing

Before adopting these proposed regulations, consideration will be given to any written comments that are timely submitted (preferably an original and eight copies) to the Internal Revenue Service. All comments will be available for public inspection and copying. Because the Treasury Department expects to issue final regulations on this matter as soon as possible, a public hearing will be held beginning at 10 a.m. on Wednesday, October 2, 1991, in room 2615, Internal Revenue Building, 1111 Constitution Avenue, NW., Washington, DC. Comments, requests to appear at the public hearing and outlines of oral comments must be received by October 3, 1991. See notice of hearing published elsewhere in this issue of the **Federal Register.**

Drafting Information

The principal author of these regulations is Peter C. Friedman of the Office of Assistant Chief Counsel (Passthroughs and Special Industries), Internal Revenue Service. However, personnel from other offices of the Service and Treasury Department participated in their development.

List of Subjects 26 CFR 1.461–1 through 1.469–11T

Accounting, Income taxes, Reporting and recordkeeping requirements.

Adoption of Amendments to the Regulations

Accordingly, title 26, part 1 of the Code of Federal Regulations is amended as follows:

Paragraph 1. The authority for part 1 continues to read in part as follows:

Authority: Sec. 7805, 68A Stat. 917; 26 U.S.C. 7805 * * *

Par. 2. Section 1.468A–0 is amended by adding paragraph (b)(11) to the entry for § 1.468A–8 as follows:

§ 1.468A–0 Nuclear decommissioning costs; table of contents.

* * * * *

§ 1.468A–8 Effective date and transitional rules.

* * * * *

(b) * * *

(11) Nuclear decommissioning fund qualification requirements.

Par. 3. Section 1.468A–3 is amended as follows:

1. Paragraph (h)(1)(iii) is revised.

2. Paragraph (i)(1)(ii) is redesignated as paragraph (i)(1)(ii)(A).

3. New paragraph (i)(1)(ii)(B) is added.

4. The added and revised provisions read as follows:

§ 1.468A–3 Ruling amount.

* * * * *

(h) * * *

(1) * * *

(iii) Except as required by § 1.468A–8(b)(11), a request for a schedule of ruling amounts must not contain a request for a ruling on any other issue, whether the issue involves section 468A or another section of the Internal Revenue Code.

* * * * *

(i) * * *

(1) * * *

(ii) * * *

(B) Any taxpayer that has obtained a schedule of ruling amounts based on a determination, under § 1.468A–8(b)(11), that its master trust arrangement is classified as an association taxable as a corporation must, if it changes the terms of the underlying trust agreement or if it chooses a different form of investment, file a request for a revised schedule of ruling amounts on or before the deemed payment deadline for the first tax year to which the change relates.

* * * * *

Par. 4. Section 1.468A–5 is amended as follows:

1. Paragraphs (a)(1) (iii) and (iv) are revised.

2. Paragraph (a)(3)(i)(C) is revised.

3. Paragraphs (a)(3)(i) (D) and (E) are added.

4. Paragraphs (a)(3)(ii) (E) and (F) are added.

5. The revised provisions read as follows:

§ 1.468A–5 Nuclear decommissioning fund qualification requirements; prohibitions against self-dealing; disqualification of nuclear decommissioning fund; termination of fund upon substantial completion of decommissioning.

(a) * * *

(1) * * *

(iii) The assets of two or more nuclear decommissioning funds (whether or not established pursuant to a single trust agreement) may be pooled only in the manner described in paragraph (a)(3)(i)(C)(*2*) of this section for the purpose of investing the assets in the property described in paragraph (a)(3)(i)(C)(*1*) of this section and only if—

(A) Separate accounts for the contributions, earnings, expenses, and distributions of each nuclear decommissioning fund are kept;

(B) The earnings and expenses are reasonably apportioned between or among such nuclear decommissioning funds; and

(C) The books and records of such funds enable the Internal Revenue Service to verify that the requirements of section 468A and §§ 1.468A–1 through 1.468A–8 are satisfied with respect to each nuclear decommissioning fund.

(iv) The assets of nonqualified decommissioning funds may be pooled with the assets of one or more nuclear decommissioning funds only in the manner described in paragraph (a)(3)(i)(C)(*2*) of this section for the purpose of investing the assets in the property described in paragraph (a)(3)(i)(C)(*1*) of this section if the requirements of paragraphs (a)(1)(iii) (A) and (C) of this section are satisfied and earnings and expenses are reasonably apportioned between or among the pooled funds.

* * * * *

(3) * * *

(i) * * *

(C) To the extent that the assets of the nuclear decommissioning fund are not currently required for the purposes described in paragraph (a)(3)(i) (A) or (B) of this section, to:

(*1*) Invest directly in—

(*i*) Public debt securities of the United States;

(*ii*) Obligations of a State or local government that are not in default as to principal or interest; or

(*iii*) Time or demand deposits in a bank (as defined in section 581) or an insured credit union (within the meaning of section 101(6) of the Federal Credit Union Act, 12 U.S.C. 1752(7)(1982)), located in the United States; or

(*2*) Invest directly in—

(*i*) A regulated investment company as defined in section 851;

(*ii*) A common trust fund as described in section 584;

(*iii*) A partnership as defined in section 761 (whether or not an election has been made to exclude the partnership from the application of subchapter K of the Internal Revenue Code); or

(*iv*) A master trust arrangement, whether classified as a partnership or as an association taxable as a corporation.

(D) A nuclear decommissioning fund does not fail to meet the investment requirement of paragraph (a)(3)(i)(C)(*1*) of this section by reason of its participation (with other qualified or nonqualified nuclear decommissioning funds) in a joint investment arrangement, as defined in § 1.468A–5(a)(3)(ii)(F), if the assets held through the arrangement are described in paragraph (a)(3)(i)(C)(*1*) of this section.

(E) Investments made under paragraphs (a)(3)(i)(C)(*2*) or (a)(3)(i)(D) of this section must meet the following additional requirements—

(*1*) In the case of a regulated investment company, common trust fund, partnership, or master trust arrangement, the company, fund, partnership, or arrangement invests, directly, only in property described in paragraph (a)(3)(i)(C)(*1*) of this section;

(*2*) In the case of a partnership or a master trust arrangement, the investors are limited to qualified and nonqualified nuclear decommissioning funds;

(*3*) In the case of a partnership or a master trust arrangement classified as a partnership, each investor's distributive share of each item of income, gain, loss, deduction, and credit is the same as the investor's share of every other item except as required by the rules of section 704(b)(2) or section 704(c) relating to contributions of appreciated property and revaluation of property and the allocations of these items to each investor must have substantial economic effect within the meaning of section 704(b)(2). An investor's distributive share may change due to contributions to or distributions from the partnership or master trust arrangement, so long as the requirements of this paragraph continue to be met after any such change;

(*4*) In the case of a regulated investment company, common trust fund, partnership, or master trust arrangement, the company, fund, partnership, or arrangement does not engage in an act that would be an act of self-dealing, as defined by paragraph (b)(2) of this section, if the regulated investment company, common trust fund, partnership, or master trust arrangement were a disqualified person; and

(*5*) In the case of a master trust arrangement or joint investment arrangement, the taxpayer must, as part of its request for a schedule of ruling amounts, request a ruling from the Internal Revenue Service as to whether the arrangement is an association taxable as a corporation.

(ii) * * *

(E) For purposes of §§ 1.468A–1 through 1.468A–8, the term "master trust arrangement" means an entity created by a single trust agreement that either establishes or is entered into by two or more qualified or nonqualified nuclear decommissioning trusts, at least one of which is a qualified nuclear decommissioning fund, and that provides for the pooling for investment purposes of the assets of the funds.

(F) For purposes of §§ 1.468A–1 through 1.468A–8, the term "joint investment arrangement" means any arrangement, satisfying the separate accounting requirements of paragraphs

(a)(1)(iii) and (a)(1)(iv) of this section, pursuant to which two or more qualified or nonqualified nuclear decommissioning trusts, at least one of which is a qualified nuclear decommissioning fund, invest their individual assets and which does not constitute a separate entity for tax purposes, regardless of its status under applicable state law or of its documentation as a "trust," "master trust," or otherwise.

* * * * *

Par. 5. Section 1.468A–8 is amended by adding a new paragraph (b)(11) as follows:

§ 1.468A–8 Effective date and transitional rules.

* * * * *

(b) * * *

(11) *Nuclear decommissioning fund qualification requirements.*

(i) For tax years beginning prior to [180 DAYS AFTER THESE PROPOSED REGULATIONS ARE ISSUED AS FINAL REGULATIONS], the Service will not assert that a master trust arrangement, as defined in § 1.468A–5(a)(3)(ii)(E), is an association taxable as a corporation for tax purposes.

(ii) An electing taxpayer that intends to use a master trust arrangement, as defined in § 1.468A–5(a)(3)(ii)(E), or a joint investment arrangement, as defined in § 1.468A–5(a)(3)(ii)(F), must comply with § 1.468A–5(a)(3)(ii)(E)(5) in connection with any request for an initial or revised schedule of ruling amounts filed [180 DAYS OR MORE AFTER THESE PROPOSED REGULATIONS ARE ISSUED AS FINAL REGULATIONS], unless the taxpayer has satisfied the applicable requirement in connection with a previous request.

Fred T. Goldberg, Jr.,

Commissioner of Internal Revenue.

[FR Doc. 91–19577 Filed 8–16–91; 8:45 am]

BILLING CODE 4830–01–M

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26 CFR Part 1

[PS–007–90]

RIN 1545–AO42

Nuclear Decommissioning Fund Qualifications Requirements; Public Hearing

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of public hearing on proposed regulations.

SUMMARY: This document provides notice of public hearing on proposed regulations relating to the qualification requirements of nuclear decommissioning funds that combine their assets for investment purposes.

DATES: The public hearing will be held on Wednesday, October 2, 1991, beginning at 10 a.m. Requests to speak and outlines of oral comments must be received by September 16, 1991.

ADDRESSES: The public hearing will be held in the Internal Revenue Building, room 2615, 1111 Constitution Avenue, NW., Washington, DC. Requests to speak and outlines of oral comments should be submitted to the Commissioner of Internal Revenue Service, P.O. Box 7604, Ben Franklin Station, Attn: CC:CORP:T:R, (PS–007–90), room 5228, Washington, DC 20044.

FOR FURTHER INFORMATION CONTACT: Felicia A. Daniels of the Regulations Unit, Assistant Chief Counsel (Corporate), 202–566–3935 or 202–377–9236, (not toll-free numbers).

SUPPLEMENTARY INFORMATION: The subject of the public hearing is proposed regulations under section 468A of the Internal Revenue Code of 1986. The proposed regulations appear elsewhere in this issue of the Federal Register.

The rules of § 601.601(a)(3) of the "Statement of Procedural Rules" (26 CFR part 601) shall apply with respect to the public hearing. Persons who have submitted written comments within the time prescribed in the notice of proposed rulemaking and who also desire to present oral comments at the hearing on the proposed regulations should submit not later than Wednesday, September 18, 1991, an outline of oral comments/testimony to be presented at the hearing and the time they wish to devote to each subject.

Each speaker (or group of speakers representing a single entity) will be limited to 10 minutes for an oral presentation exclusive of the time consumed by questions from the panel for the government and answers to these questions.

Because of controlled access restrictions, attendees cannot be permitted beyond the lobby of the Internal Revenue Building until 9:15 a.m.

An agenda showing the scheduling of the speakers will be made after outlines are received from the persons testifying. Copies of the agenda will be available free of charge at the hearing.

By direction of the Commissioner of the Internal Revenue.

Dale D. Goode,

Federal Register Liaison Officer, Assistant Chief Counsel (Corporate).

[FR Doc. 91–19611 Filed 8–16–91; 8:45 am]

BILLING CODE 4830–01–M

Bureau of Alcohol, Tobacco and Firearms

27 CFR Part 178

[Notice No. 723]

Domestic Assembly of Nonimportable Firearms

AGENCY: Bureau of Alcohol, Tobacco and Firearms (ATF), Department of the Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Bureau of Alcohol, Tobacco and Firearms (ATF) is proposing to amend 27 CFR part 178, relating to firearms, to implement section 2204 of the Crime Control Act of 1990, Public Law 101–647 (104 Stat. 4789), approved November 29, 1990. Section 2204 makes it unlawful for any person to assemble from imported parts any semiautomatic rifle or any shotgun which is identical to any rifle or shotgun prohibited from importation under the Gun Control Act of 1968, as amended, (GCA) (18 U.S.C. chapter 44), as not being particularly suitable for or readily adaptable to sporting purposes.

DATES: Written comments must be received by November 18, 1991.

ADDRESSES: Send written comments to Chief, Firearms and Explosives Operations Branch, Bureau of Alcohol, Tobacco and Firearms, P.O. Box 50239, Washington, DC 20091, ATTN: Notice No. 723.

FOR FURTHER INFORMATION CONTACT: Robert Trainor, ATF Coordinator, Firearms and Explosives Operations Branch, Bureau of Alcohol, Tobacco and Firearms, P.O. Box 50239, Washington, DC 20091, (202–535–6024).

SUPPLEMENTARY INFORMATION: This notice proposes regulations implementing section 2204 of the Crime Control Act of 1990, Public Law 101–647, which amended the Gun Control Act of 1968, as amended, chapter 44 (relating to firearms) of title 18, United States Code. Specifically, section 2204 added a new section 922(r) making it unlawful for any person to assemble from imported parts any semiautomatic rifle or any shotgun which is identical to any rifle or shotgun prohibited from importation under the GCA as not being particularly suitable for or readily adaptable to sporting purposes. Section 922(r) excepts from the general prohibition the assembly of rifles or shotguns for distribution by licensed manufacturer to the United States or to any State and the assembly of such firearms for purposes of testing or experimentation authorized by the Secretary.

The proposed regulations prohibit the assembly of any nonsporting semiautomatic rifle or any nonsporting shotgun which would not qualify for importation as sporting firearms under 18 U.S.C. 925(d)(3) if two or more components required for the designed function of the weapon were imported.

The meaning of the phrase "assembled from imported parts" is not readily apparent from the face of section 922(r). To ascertain its meaning, ATF reviewed its legislative history. The assembly prohibition originated as part of the President's crime bill, S. 1225, the "Comprehensive Violent Crime Control Act of 1989" and was substantially incorporated in section 705 of H.R. 5269, the "Comprehensive Crime Control Act of 1990." The principal purpose of these bills was to avoid the circumvention of the import restrictions of the GCA by importing firearms parts and assembling them in the United States using domestically manufactured frames or receivers. The President's Message to Congress Transmitting A Draft of Proposed Legislation Entitled the "Comprehensive Violent Crime Control Act of 1989," H.R. Doc. 101–73, 101st Cong., 1st Sess. 81 (June 15, 1989).

The language "from imported parts" was added to H.R. 5269 as a floor amendment in the House and was enacted by the Congress. The concern of those House members who favored the amendment was that, without the amendment, the provision would make it unlawful for American firearms manufacturers to assemble semiautomatic rifles that had been in production in the United States for many years. In these members' views, the amendment was a technical, clarifying one which would carry out the principal purpose of the bill—to prevent the circumvention of the current prohibition on the importation of nonsporting firearms. In order not to preclude the assembly of firearms manufactured in this country, the proposed regulations would only prohibit an assembly utilizing imported, foreign-made parts, but not an assembly using parts originally manufactured in the United States but acquired from foreign sources.

In addition, the proposed regulations do not require that all parts of a firearm must be imported before the prohibition would apply. Under current law, the frame or receiver alone of a nonsporting firearm cannot lawfully be imported into the United States. This prohibition flows from the Gun Control Act definition of "firearm" which includes the frame or receiver of a firearm. 18 U.S.C. 921(a)(3)(B). In addition, section 925(d)(3) expressly prohibits from importation the frame or receiver of a nonimportable firearm. Consequently, the assembly in this country of nonsporting semiautomatic rifles and nonsporting shotguns generally requires use of domestically made frames or receivers. If section 922(r) is interpreted to require that all of the parts, including the frame or receiver, be imported, the statute would address conduct that would not ordinarily occur. This interpretation would result in a statute which would have virtually no practical application and no meaning. Moreover, such an interpretation would totally ignore and defeat the purpose of the legislation which was to curb the assembly of nonimportable firearms from imported parts on domestically made frames or receivers.

Thus, the proposed regulations recognize that Congress must have been aware of the statutory prohibition on the importation of frames or receivers of nonimportable firearms, *i.e.*, they could not have intended that the statute reach only the assembly of those weapons from totally imported parts.

On the other hand, the proposed regulations do not prohibit the assembly of firearms containing any imported parts. There is no doubt that many essentially domestic weapons contain some minor imported parts, such as screws or springs. To our knowledge, these weapons are not assembled from foreign-made parts required for the designed function of the firearms. Accordingly, the proposed regulations would only prohibit the assembly utilizing imported parts which are required for the designed function of the firearm. A list of these components is set forth in the proposed regulations. Because the assembly prohibition in the statute focuses on the plural "parts" rather than the singular "part", the proposed regulations prohibit an assembly of nonsporting firearms and shotguns utilizing two or more of these firearms components.

With respect to what firearms are "identical" to any nonimportable rifle or shotgun, ATF does not believe that Congress intended to require that firearms prohibited from assembly under section 922(r) be exact copies of specific rifles or shotguns which ATF has found to be nonimportable under section 925(d)(3). Such an interpretation would result in a prohibition which could be easily circumvented by merely changing one minor feature on the assembled firearms, *e.g.*, slightly changing the barrel length. Thus, the proposed regulations take the position that the phrase "identical to any rifle or shotgun prohibited from importation" means that a firearm may not be lawfully assembled from imported parts if that firearm would not be importable under section 925(d)(3).

Executive Order 12291

In compliance with Executive Order 12291, 46 FR 13193 (1981), ATF has determined that this rule is not a "major rule" and a regulatory impact analysis is not required because the economic consequences of the regulations are the direct result of the implementation of a statute. Additionally, this rule will not result in:

(a) An annual effect on the economy of $100 million or more; (b) a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or (c) significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Regulatory Flexibility Act

The provisions of the Regulatory Flexibility Act relating to an initial and final regulatory flexibility analysis (5 U.S.C. 604) are not applicable to this proposal because the notice of proposed rulemaking, if promulgated as a final rule, will not have a significant economic impact on a substantial number of small entities. The proposal will not impose, or otherwise cause, a significant increase in reporting, recordkeeping, or other compliance burdens on a substantial number of small entities. The proposal is not expected to have significant secondary or incidental effects on a substantial number of small entities.

Accordingly, it is hereby certified under the provisions of section 3 of the Regulatory Flexibility Act (5 U.S.C. 605(b)) that this notice of proposed rulemaking, if promulgated as a final rule, will not have a significant impact on a substantial number of small entities.

Paperwork Reduction Act

The collection of information contained in this notice of proposed rulemaking has been submitted to the Office of Management and Budget for review in accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. 3504(h)). Comments on the collection of information should be sent to the Bureau of Alcohol, Tobacco and Firearms, P.O. Box 50239, Washington,

DC 20091, ATTN: Notice No. 723., and the Office of Management and Budget, Paperwork Reduction Project, Washington, DC 22503. The collection of information in this proposed regulation is in 27 CFR 178.151(b). This information is required by ATF to provide a means to obtain authorization for the assembly of a nonsporting rifle or nonsporting shotgun for the purpose of testing or experimentation, as provided for in section 922(r). It is estimated 5 respondents and/or recordkeepers will request authorization annually, with a frequency of one request per year. The estimated average burden associated with this collection of information is .5 hours per respondent or recordkeeper, depending on individual circumstances.

Public Participation

ATF requests comments from all interested persons. Comments received on or before the closing date will be carefully considered. Comments received after that date will be given the same consideration if it is practical to do so, but assurance of consideration cannot be given except as to comments received on or before the closing date. ATF will not recognize any material as confidential.

Comments may be disclosed to the public. Any material which the commenter considers to be confidential or inappropriate for disclosure should not be included in the comment. The name of the person submitting the comment is not exempt from disclosure.

During the comment period, any person may request an opportunity to present oral testimony at a public hearing. However, the Director reserves the right, in light of all circumstances, to determine if a public hearing is necessary.

Disclosure

Copies of this notice and the written comments will be available for public inspection during normal business hours at: ATF Reading Room, Disclosure Branch, room 8920, 650 Massachusetts Avenue, Washington, DC.

Drafting Information

The principal author of this notice of proposed rulemaking is Robert Trainor, Coordinator, Firearms and Explosives Operations Branch, Bureau of Alcohol, Tobacco and Firearms.

List of Subjects in 27 CFR Part 178

Administrative practice and procedure, Arms and munitions, Authority delegations, Customs duties and inspections, Exports, Imports, Military personnel, Penalties, Reporting requirements, Research, Seizures and forfeitures, and Transportation.

Authority And Issuance

PART 178—COMMERCE IN FIREARMS AND AMMUNITION

Paragraph 1. The authority citation for part 178 continues to read as follows:

Authority: 5 U.S.C. 552(a); 18 U.S.C. 847, 921–930; 44 U.S.C. 3504(h).

Par. 2. Sections 178.39 and 178.151 are added to the table of contents to read as follows:

Sec.

Subpart C—Administrative and Miscellaneous Provisions

178.39 Assembly of semiautomatic rifles or shotguns.

Subpart I—Exemptions, Seizures, and Forfeitures

178.151 Semiautomatic rifles or shotguns manufactured or imported for the purpose of testing or experimentation.

* * * * *

Par. 3. Section 178.11 is amended by adding the following definition of "semiautomatic rifle" after the definition of "rifle" to read as follows:

§ 178.11 Meaning of terms.

* * * * *

Semiautomatic rifle. Any repeating rifle which utilizes a portion of the energy of a firing cartridge to extract the fired cartridge case and chamber the next round, and which requires a separate pull of the trigger to fire each cartridge.

* * * * *

Par. 4. Section 178.39 is added to subpart C to read as follows:

§ 178.39 Assembly of semiautomatic rifles or shotguns.

(a) No person shall assemble a semiautomatic rifle or any shotgun using two or more of the imported parts listed in paragraph (c) of this section if the assembled firearm is prohibited from importation under section 925(d)(3) of the Act as not being particularly suitable for or readily adaptable to sporting purposes.

(b) The provisions of this section shall not apply to:

(1) The assembly of such rifle or shotgun for sale or distribution by a licensed manufacturer to the United States or any department or agency thereof or to any State or any department, agency, or political subdivision thereof; or

(2) The assembly of any such rifle or shotgun for the purposes of testing or experimentation authorized by the Director under the provisions of § 178.151.

(c) For purposes of this section, the term "imported parts" means foreign made:

(1) Frames or receivers.

(2) Receiver castings, forgings or stampings.

(3) Barrels.

(4) Barrel extensions.

(5) Mounting blocks (trunions).

(6) Muzzle attachments.

(7) Bolts.

(8) Bolt carriers.

(9) Operating rods.

(10) Gas pistons.

(11) Trigger housings.

(12) Triggers.

(13) Hammers.

(14) Sears.

(15) Disconnectors.

(16) Buttstocks.

(17) Pistol grips.

(18) Forearms.

(19) Handguards.

(20) Magazine bodies.

(21) Followers.

(22) Floorplates.

Par. 5. Section 178.151 is added to subpart I to read as follows:

§ 178.151 Semiautomatic rifles or shotguns for testing or experimentation.

(a) The provisions of § 178.39 shall not apply to the assembly of such firearms for the purpose of testing or experimentation as authorized by the Director.

(b) A person desiring such authorization to assemble nonsporting semiautomatic rifles or shotguns shall submit a written request, in duplicate, to the Director. Each such request shall be executed under the penalties of perjury and shall contain a complete and accurate description of the firearm to be assembled, and such diagrams or drawings as may be necessary to enable the Director to make a determination. The Director may require the submission of the firearm parts for examination and evaluation. If the submission of the firearms parts is impractical, the person requesting the authorization shall so advise the Director and designate the place where the firearm parts will be available for examination and evaluation.

Signed: July 26, 1991.

Stephen E. Higgins,

Director.

Approved: August 8, 1991.

Peter K. Nunez,

Assistant Secretary (Enforcement).

[FR Doc. 91–19815 Filed 8–16–91; 8:45 am]

BILLING CODE 4810–31–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 146

[FRL 3919-5]

RIN 2040 AB92

Underground Injection Control Program; Hazardous Waste Disposal Injection Restrictions and Requirements for Class I Wells; Revision of Testing and Monitoring Requirements

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule revision.

SUMMARY: EPA is today proposing a revision to the testing and monitoring requirements for Class I hazardous waste injection wells. These requirements were promulgated on July 26, 1988 (53 FR 28118). Specifically, the Agency is proposing to change the timing requirement for the conducting of a Casing Inspection Log (CIL) as required under 40 CFR 146.68(d)(4). Rather than running the test on a fixed schedule every five years, today's proposal would require that the log be run whenever a well workover involves the pulling of the injection tubing, unless the UIC Program Director waives the requirement if satisfactory results from the test were obtained within the previous five years. However, the Director may still require the log to be run on a fixed five-year schedule, in certain cases.

DATES: Comments concerning this proposed revision must be received on or before October 18, 1991.

ADDRESSES: Submit all comments (in triplicate), and inquiries concerning the Public Docket, to Bruce J. Kobelski, U.S. Environmental Protection Agency, Office of Drinking Water (WH-550E), 401 M Street SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Bruce J. Kobelski, EPA, Office of Drinking Water, (202) 382-7275.

SUPPLEMENTARY INFORMATION:

Preamble Outline

I. Background

A. Summary of UIC Land Ban Requirements

In response to the Hazardous and Solid Waste Amendments of 1984 (HSWA), on July 26, 1988, the Agency promulgated its approach to implementing the statutorily mandated prohibitions on the underground injection of hazardous waste. See 53 FR 28118. This rulemaking codified at 40 CFR part 148, for hazardous waste disposed of in Class I injection wells, the directly applicable sections of part 268, the Agency's regulatory framework for implementing the land disposal restrictions. See 51 FR 40572, November 7, 1986, for a further discussion. Part 148 also specifies the effective dates of the restrictions on the injection of hazardous wastes.

The July 26, 1988, rulemaking also codified under part 148, the procedure, or petition process, whereby an operator may continue to inject hazardous waste when the applicant has demonstrated to the satisfaction of the Administrator that there will be no migration of hazardous constituents from the injection zone for as long as the wastes remain hazardous. Upon a successful demonstration, the Agency will grant the owner or operator an exemption from the land ban prohibitions.

B. Part 146 Technical Requirements

This same rule also promulgated amendments to the technical requirements for Class I hazardous waste injection wells. Both previously existing, and new technical requirements applicable to Class I wells were codified under part 146, subpart G of the UIC regulations. These requirements include appropriate siting standards, well construction requirements, area of review evaluation, corrective action, operating requirements, reporting, closure and post closure care, and testing and monitoring requirements, for Class I hazardous waste injection wells. Under 40 CFR 146.68 (testing and monitoring requirements), periodic mechanical integrity (MI) testing of a well's tubular goods (internal MI), and an assessment of the existence of movement of fluid along the borehole (external MI), must be conducted to fulfill the requirements of § 146.8 in the UIC regulations. A casing inspection log (CIL) must be run once every five years in order to meet the testing and monitoring requirements for Class I hazardous waste injection wells.

C. Settlement Agreement on Casing Inspection Log

The above rulemaking was challenged by both industry and environmental groups in *NRDC* v. *EPA*, No. 88-1657 and cons. cases (DC Cir.). EPA signed a partial settlement agreement with the Chemical Manufacturers Association (CMA) concerning minor issues in that litigation. One of the minor issues was the requirement to run a casing inspection tool every five years. This casing evaluation requires the pulling of well tubing. CMA argued that a better approach would be to require such casing inspection to coincide with normal well workover operations. These occur at a reasonable frequency, but not necessarily every five years. As discussed further below, EPA had also recently approved an oxygen-activation (OA) log, which also helps assure injection well integrity. Based on these considerations, EPA agreed to propose today's amendment to 40 CFR part 146 and solicit public comments.

II. Summary of Today's Proposed Rulemaking

A. Description of Testing Method

The casing inspection log, a new requirement for owners and operators of hazardous waste injection wells, is a down-hole tool using variations in measured electromagnetic flux to record the thickness of the injection well casing (References 1-5). It has the distinct advantage of being a predictive tool in that it not only can indicate the presence of small holes or breaks in the metal casing, but it can also reveal any developing weaknesses, or pitting, which may be a precursor to a hole or breach in the casing caused by corrosion. Interaction of the metal well casing with a highly corrosive waste stream, or with highly saline formation waters, can cause the eventual loss of the well's mechanical integrity.

B. Agency Response to Earlier Rulemaking Comments

Of the comments received by the Agency during rulemaking regarding the application of this tool, the majority of comments did not argue the efficacy of the CIL. It has been used in the petroleum industry for a number of years. However, the comments objected to the rigid time requirement of once every five years that had been established by the Agency. Industry well operators contended that the

pulling of the injection tubing and packer, which must be done in order to run this instrument, could eventually damage the well. Limiting the times that the injection tubing is pulled, such as during a well "workover", lessens the chance of mechanical loss of the well, and shortens the impact of "down time" on injection well operations according to the comments.

The Agency responded in the July 26, 1988, final rule that the propensity for problems to develop in a well within a five year period justifies the frequency. In addition, the Agency maintained that since operators must use a temperature or noise log every five years anyway to test for fluid movement along the borehole, and that these logs are most sensitive when the tubing is pulled, use of the CIL should not contribute significantly to "down time" if all tests are scheduled coincidentally.

Therefore, this requirement was promulgated as proposed, but the final rule granted the Director discretion to waive the use of this tool if well construction or other factors would limit it's reliability or application.

C. Justification of Proposed Rule Revision

The Agency has now reassessed its position on the schedule for running the CIL, and is proposing to revise this requirement in today's rulemaking.

There are several reasons for this reassessment. First, a new mechanical integrity tool for assessing well fluid movement along the well bore has been approved by the Agency. This logging method, the Oxygen-Activation (OA) Method, received final approval on February 1, 1991 (56 FR 4063). In addition, more documentation regarding the efficacy of temperature and noise logging inside tubing has been reviewed by the Agency. Both of these factors, particularly the approval of the Oxygen-Activation method, negate the necessity of the operator's pulling the injection tubing at regular five-year intervals.

Second, for detecting leaks in the well's tubular goods, the Agency already requires continuous pressure monitoring and annual pressure testing. The added information provided by the CIL is important as a predictive method, but it is a redundant protection factor with regard to assessing potential well leaks and any possible threat these leaks may pose to ground water resources. The CIL can help in assuring that no leaks would ever occur, but a leak of fluid from the long-string casing would probably not lead to any endangerment to drinking water as long as the injection tubing and packer had mechanical integrity.

Therefore, in order to balance industry concerns with any potential threats to human health and the environment, the Agency believes that it would be more practical to require running the CIL whenever the well was being worked over, rather than require the operators to pull the injection string on a fixed five-year interval. The Director may waive this requirement due to well construction or other factors which may limit the test's reliability, or based upon successful results from a CIL run within the previous five years. However, because in some limited cases where a corrosive wastestream may have come into contact with the well's casing, or in areas where formation fluids which come into contact with the casing are known to cause rapid degradation of a well's casing, the Agency is proposing that the Director may still require a fixed five-year CIL schedule.

D. Timing Considerations

All new part 146 technical requirements for Class I hazardous waste injection wells became effective August 25, 1988. EPA has interpreted the timing requirement in 40 CFR 146.68(d)(4) for a casing inspection log as five years from this effective date. Therefore the current regulations require a CIL beginning on August 25, 1993, for existing wells.

The Agency intends to promulgate a final rule regarding this revision no later than July 31, 1992, in order to allow operators to schedule their well testing accordingly, and to allow the Primacy States adequate time to adopt this change. All Primacy States affected by the new Class I requirements promulgated in the July 26, 1988, rulemaking were to have conformed with the new part 146 regulations by April 26, 1989 (section 1422(b)(1), SDWA).

III. Requests for Comments

As a result of the new information provided, and because of the recent developments relating to Agency approval of alternative mechanical integrity testing methods, the Agency is proposing today's rule change for 40 CFR 146.48(d)(4) testing requirements.

By first proposing this rule revision, the Agency is allowing time for individuals to submit comments on any issues raised by today's proposal, and for the Agency to consider any and all information relating to this matter. All alternatives will be considered by the Agency, and all comments received will be addressed in any final rulemaking.

IV. Regulatory Requirements

A. Regulatory Impact Analysis

Under Executive Order 12291, EPA must determine whether a regulation is "major", and therefore subject to the requirement of a Regulatory Impact Analysis. The overall effect of today's proposed rule, if finalized, would be to allow greater flexibility for requirements of part 146 testing and monitoring requirements for Class I hazardous waste injection wells. No additional requirements to the existing UIC rules are being proposed. The net effect of this proposal, if finalized, would allow the UIC Director to grant more discretion in timing requirements for a casing inspection log.

For some injection facilities the timing requirement change, or a waiver for running the tool may extend cost savings to owners or operators by avoiding certain operation disruptions. However, additional costs may be realized by running the tool on an alternate schedule from the already required annual and five year mechanical integrity tests, thus offsetting any potential savings. Consequently, as the Agency cannot estimate the exact number, or which injection facilities may benefit from this proposed rule change, we have assumed that there will be no net change in costs or burden for the overall hazardous waste injection well population. Therefore, no additional regulatory impact analysis is required.

B. Regulatory Flexibility Act

Pursuant to the Regulatory Flexibility Act, 5 U.S.C. 601–612, whenever an agency is required to publish a General Notice of Rulemaking for any proposed or final rule, it must prepare and make available for public comment a regulatory flexibility analysis that describes the impact of the rule on small entities (i.e., small businesses, small organizations, and small governmental jurisdictions). This analysis is unnecessary, however, if the agency's administrator certifies that the rule will not have a significant economic effect on a substantial number of small entities.

Owners and operators of hazardous waste injection wells are generally major chemical, petrochemical, and other manufacturing companies. This rule is deregulatory in nature and thus could provide beneficial opportunities to facilities that may be affected by the rule. The Agency is not aware of any small entities that would be directly affected by this rule. Accordingly, the Administrator certifies that this rule will

not have significant economic effects on a substantial number of small businesses. As a result of this finding, EPA has not prepared a formal Regulatory Flexibility Analysis.

C. Paperwork Reduction Act

There are no additional reporting, notification, or recordkeeping provisions proposed in this rule. Such provisions, were they included, would be submitted for approval to the Office of Management and Budget (OMB) under the Paperwork Reduction Act, 44 U.S.C. 3501 et seq.

The information collection requirements for the UIC Program have previously been approved by the Office of Management and Budget, and have been assigned OMB control number 2040–0042.

V. References

1. Cuthbert, J.F. and Johnson, W.M., 1975, New Casing Inspection Log, 1975 AGA Operating Section Transmission Conference Proceedings, May 19–21, 1975, 14 pages.

2. Jordan, C. W., Cased Hole Logging for Determining Mechanical Integrity of Storage Wells, Dresser Atlas Report, 28 pages.

3. Corrosion, Its Detection and Control in injection Wells, USEPA Technical Assistance Document, No. 570/9–87–002, Office of Drinking Water, August 1987, 51 pages.

4. Schlumberger, 1987, Production Services Catalog, 60 pages.

5. Guidance Document on Mechanical Integrity Testing of Injection Wells, Geraghty and Miller Report for USEPA, 1982, 31 pages.

List of Subjects in 40 CFR Part 146

Administrative practice and procedure, Hazardous materials, Reporting and recordkeeping requirements, Waste treatment and disposal, Water pollution control, Water supply.

Dated: August 5, 1991.

William K. Reilly,

Administrator.

Therefore chapter I of title 40 is proposed to be amended as follows:

PART 146—UNDERGROUND INJECTION CONTROL PROGRAM: CRITERIA AND STANDARDS

1. The authority citation for part 146 continues to read as follows:

Authority: Safe Drinking Water Act, 42 U.S.C. 300f et seq.; Resource Conservation and Recovery Act, 42 U.S.C. 6901 et seq.

2. Subpart G, § 146.68, paragraph (d)(4), is revised to read as follows:

§ 146.68 Testing and monitoring requirements.

* * * * *

(d) * * *

(4) Casing inspection logs shall be run whenever the owner or operator conducts a workover in which the injection string is pulled, unless the Director waives this requirement due to well construction or other factors which limit the test's reliability, or based upon the satisfactory results of a casing inspection log run within the previous five years. The Director may require that a casing inspection log be run every five years, if he has sufficient reason to believe that corrosive fluids may come into contact with, and adversely affect, the long string casing of the well;

* * * * *

[FR Doc. 91–19757 Filed 8–16–91; 8:45 am]

BILLING CODE 6560–50–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

42 CFR 413

[BPD–689–P]

RIN 0938–AE80

Medicare Program; Uniform Electronic Cost Reporting System for Hospitals

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Proposed rule.

SUMMARY: This proposed rule implements the provisions of section 4007(b) of the Omnibus Budget Reconciliation Act of 1987, as amended by section 411(b)(1) of the Medicare Catastrophic Coverage Act of 1988, which require the Secretary to place into effect a standardized electronic cost reporting system for all hospitals under the Medicare program. Under this proposed rule, all hospitals would be required to submit their cost reports, currently required under Medicare regulations, in a uniform electronic format. These provisions would also allow the Secretary to grant a delay or a waiver of this requirement where implementation could result in financial hardship for a hospital.

DATES: Comments will be considered if we receive them at the appropriate address, as provided below, no later than 5 p.m. on October 18, 1991.

ADDRESSES: Mail comments to the following address: Health Care Financing Administration, Department of Health and Human Services, Attention: BPD–689–P, P.O. Box 26676, Baltimore, Maryland 21207.

If you prefer, you may deliver your comments to one of the following addresses:

Room 309–G, Hubert H. Humphrey Building, 200 Independence Avenue SW., Washington, DC

Room 132, East High Rise Building, 6325 Security Boulevard, Baltimore, Maryland

Due to staffing and resource limitations, we cannot accept facsimile (FAX) copies of comments.

If comments concern information collection or recordkeeping requirements, please address a copy of the comments to: Office of Management and Budget, Office of Information and Regulatory Affairs, room 3206, New Executive Office Building, Washington, DC 20503, Attention: Allison Herron.

In commenting, please refer to file code BPD–689–P.

Comments received timely will be available for public inspection as they are received, generally beginning approximately three weeks after publication of a document, in room 309–G of the Department's offices at 200 Independence Avenue SW., Washington, DC, on Monday through Friday of each week from 8:30 a.m. to 5 p.m. (phone: (202) 245–7890).

FOR FURTHER INFORMATION CONTACT: Charlene Brown, (301) 966–4523.

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SUPPLEMENTARY INFORMATION:

I. Background

Under Medicare, hospitals are paid for inpatient hospital services which they furnish to beneficiaries under Part A (Hospital Insurance). Currently, most hospitals are paid for their inpatient hospital services under the prospective payment system in accordance with section 1886(d) of the Social Security Act (the Act) and 42 CFR part 412.

Under this system, Medicare payment is made at a predetermined, specific rate for each hospital discharge based on the information contained on actual bills submitted.

Section 1886(f)(1)(A) of the Act provides that the Secretary will maintain a system for reporting costs of hospitals paid under the prospective payment system. This provision is implemented by § 412.52, which requires all prospective payment system hospitals to meet the recordkeeping and cost reporting requirements of §§ 413.20 and 413.24, which include submitting a cost report for each 12 month period.

The hospitals and hospital units that are excluded from the prospective payment system are generally paid an amount based on the reasonable cost of services furnished to beneficiaries. The inpatient operating costs of these hospitals and hospital units are subject to the ceiling on the rate of hospital cost increases in accordance with section 1886(b) of the Act and § 413.40.

Sections 1815(a) and 1833(e) of the Act provide that no payments will be made to a hospital unless it has furnished the information, requested by the Secretary, needed to determine the amount of payments due the hospital under the Medicare program. In general, hospitals submit this information through cost reports that cover a 12-month period of time. These provisions are implemented by §§ 413.20 and 413.24.

All hospitals participating in the Medicare program, whether they are paid on a reasonable cost basis or under the prospective payment system, are required under § 413.20(a) to "maintain sufficient financial records and statistical data for proper determination of costs * * *." In addition, hospitals must use standardized definitions and follow accounting, statistical, and reporting practices that are widely accepted in the hospital and related fields. Under the provisions of §§ 413.20(b) and 413.24(f), hospitals are required to submit cost reports annually, with the reporting period based on the hospital's accounting year.

II. Summary of Recent Legislation

On December 22, 1987, the Omnibus Budget Reconciliation Act of 1987 (Pub. L. 100–203) was enacted. Section 4007 of Public Law 100–203, which was subsequently amended by section 411(b)(6) of the Medicare Catastrophic Coverage Act of 1988 Public Law 100–360, added section 1886(f)(1)(B) of the Act, which sets forth several provisions concerning the reporting of hospital information under the Medicare program.

Section 4007(c) of Public Law 100–203 requires the Secretary to provide for a demonstration project in two States to develop and determine the costs and benefits of establishing a uniform system for reporting, by Medicare participating hospitals, of balance sheets and additional prescribed information. The interim final rule implementing the electronic cost reporting demonstration project was published in the **Federal Register** on August 25, 1989 (54 FR 35329). Hospitals in California and Colorado will electronically submit cost reports for cost reporting periods beginning on or after July 1, 1989 and before July 1, 1991. Under the demonstration project, these hospitals will submit the current cost reporting form and additional worksheets that will include additional data elements.

Section 1886(f)(1)(B)(i) of the Act provides that the Secretary will place into effect a standardized electronic cost reporting format for hospitals under Medicare. Under section 4007(b) of Public Law 100–203, as amended by section 411(b)(6) of Public Law 100–360, this provision was effective for hospital cost reporting periods beginning on or after October 1, 1989. This effective date is necessarily before the completion and evaluation of the demonstration project. This standardized electronic cost reporting format does not require any additional data from hospitals.

Section 1886(f)(1)(B)(ii) of the Act provides that the Secretary may delay or waive the implementation of the electronic format in instances where such implementation would result in financial hardship for a hospital. The law specifically mentions hospitals with a small percentage of inpatients entitled to Medicare benefits, as an example of a financial hardship situation.

III. Provisions of this Proposed Rule

A. General

This proposed rule implements section 1886(f)(1)(B)(i) of the Act, which requires the Secretary to place into effect a standardized electronic cost reporting format for hospitals under the Medicare program, and section 1886(f)(1)(B)(ii) of the Act, which allows the Secretary discretion to waive or delay the implementation of the electronic cost reporting requirement, where such implementation would result in financial hardship for a particular hospital.

B. Implementation of the Proposed Rule

This proposed rule requires that cost reports be submitted in a standardized electronic format. The hospital's cost report software must be able to produce a standardized output file in American Standard Code for Information Interchange (ASCII) format. All intermediaries have the ability to read this standardized file and produce a correct cost report. This proposed rule does not require the reporting of any additional information.

However, if a hospital refuses to submit the cost reports electronically, Medicare payments to that hospital may be suspended under the provisions of sections 1815(a) and 1833(e) of the Act. As explained above, sections 1815(a) and 1833(e) of the Act provide that no Medicare payments will be made to a hospital unless it has furnished the information, requested by the Secretary which is needed to determine the amount of payments due the hospital under the Medicare program. Regulations at § 405.371(d) provide for suspension of Medicare payments to a hospital by the intermediary if the hospital has failed to submit information requested by the intermediary that is needed to determine the amount due the hospital under Medicare. The general procedures that are followed when Medicare payment to a hospital is suspended for failure to submit information that is needed by the intermediary to determine Medicare payment (that is, when a hospital fails to furnish a cost report or furnishes an incomplete cost report or fails to furnish other needed information) are located in section 2231 of the Intermediary manual (HCFA Pub. 13). These procedures include timeframes for "demand letters" to hospitals, which in addition to reminding hospitals to file timely and complete cost reports, explain possible adjustments of Medicare payments to a hospital and the right to request a 30-day extension of the due date.

If a hospital believes that implementation of the electronic submission requirement would cause a financial hardship, the hospital should submit a written request for a waiver or a delay of these requirements, with supporting documentation, to the hospital's intermediary at least 120 days prior to the end of its cost reporting period. The intermediary would review the request and forward it, with a recommendation for approval or denial, to the HCFA central office within 30 days of such request. HCFA central office would either approve or deny the request by response to the intermediary within 60 days of receipt of the request. Each delay or waiver would be considered on a case by case basis would be time limited. We expect, however, that few providers would experience financial hardships due to

electronic reporting. To date we have received no requests for an exception to electronic reporting due to financial hardship.

IV. Regulatory Impact Statement

Executive Order 12291 (E.O. 12291) requires us to prepare and publish a regulatory impact analysis for any proposed rule such as this that meets one of the Executive Order 12291 criteria for a "major rule," that is, that would be likely to result in—

- An annual effect on the economy of $100 million or more;
- A major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or
- Significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

In addition, we generally prepare a regulatory flexibility analysis that is consistent with the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 through 612) unless the Secretary certifies that a proposed rule such as this would not have a significant economic impact on a substantial number of small entities. For purposes of the RFA, all hospitals and small businesses that distribute cost-report software to hospitals are considered to be small entities. Intermediaries are not included in the definition of a small entity.

Section 1102(b) of the Act requires the Secretary to prepare a regulatory impact analysis if a proposed rule may have a significant impact on the operations of a substantial number of small rural hospitals. Such an analysis must conform to the provisions of section 603 of the RFA. For purposes of section 1102(b) of the Act, we define a small rural hospital which is located outside of a Metropolitan Statistical Area (MSA) and has fewer than 50 beds.

Under the provisions of §§ 413.20(b) and 413.24(f), hospitals are required to submit cost reports annually, with reporting periods based on the hospital's accounting year. This is generally a consecutive 12-month period. New section 1886(f)(1)(B)(i) of the Act now requires the use of a standardized electronic cost reporting format for hospitals.

Approximately 90 percent of all Medicare participating hospitals are voluntarily submitting electronically prepared cost reports to their intermediaries. However, some of the electronic systems are not readily compatible with the automated system used by the hospital's intermediary. If a hospital's electronic submission is not compatible with the system of the intermediary, currently, the intermediary inputs the data manually. It is estimated that it takes the intermediary 8 to 12 hours to input manually each hospital's data for the cost report. When more hospitals begin submitting cost reports electronically, utilizing a standardized format, both intermediaries and hospitals will benefit since the inputting times will be reduced significantly.

There are approximately 30 national software suppliers that distribute cost report software packages to hospitals. In addition, HCFA also offers a cost reporting software package that is available at no expense to any hospital that requests it. Computer software suppliers and hospitals that purchased their software would not be significantly affected by the provisions of this proposed rule. Suppliers would not need to develop new software and hospitals would not need to purchase new software but only revise the software or have the cost report portion of the software revised based on standard format requirements set by HCFA. Although the cost report portion of software packages would be exactly the same, competition among suppliers would not be adversely affected since each offers other features that make its produce unique.

Hospitals that handle a small percentage of Medicare beneficiaries and small rural hospitals would be most affected by this proposed rule because they may be unable to afford the equipment to submit electronically. However, since hospitals have the opportunity to request a delay or waiver of this requirement, we expect that few, if any, hospitals, including small rural hospitals, would suffer any financial hardship due to this proposed rule. In addition, we believe that hospitals that handle a small number of Medicare cases and small rural hospitals that have access to computer equipment could utilize and benefit from HCFA's free software if they are unable to afford the software that is available from suppliers.

We will consider the results of the uniform cost reporting demonstration required by section 4007(c) of Public Law 101–203 in any future changes to the electronic cost reporting system.

We are not preparing a rural impact statement since the Secretary certifies that this proposed rule would not have a significant economic impact on the operation of a substantial number of small rural hospitals.

In conclusion, this proposed rule would not have a significant effect on hospital costs since hospitals would not be required to collect any additional data beyond that which the regulations currently specify; cost-report software is available at no cost from HCFA to any hospital that requests it; and most hospitals have some type of computer equipment through which they are currently submitting electronically prepared cost reports. Hospitals would only be affected to the extent that all would be required to submit cost reports in a standardized electronic format to their respective intermediary. A hospital that is in noncompliance with the provisions of this rule, as specified in the preamble, would be subject to sections 1815(a) and 1833(e) of the Act, which provide that no payments will be made to a hospital unless it has furnished the information requested by the secretary that is needed to determine the amount of payments due the hospital under Medicare.

This proposed rule is not a major rule under Executive Order 12291 since it would not have an effect on the economy of $100 million or more and would not meet any of the other criteria, nor would it have a significant effect on a substantial number of Medicare participating hospitals or software suppliers. Therefore, regulatory impact and regulatory flexibility analyses are not required.

V. Other Required Information

A. Response to Comments

Because of the large number of items of correspondence which we normally receive on a proposed rule, we are not able to acknowledge or respond to them individually. However, we will consider all comments that we receive by the date and time specified in the "**DATES**" section of this preamble, and, if we proceed with a final rule, we will respond to the comments in the preamble of that rule.

B. Paperwork Reduction Act

Section 413.24 of this proposed rule contains information recordkeeping requirements that are subject to the Office of Management and Budget (OMB) review under the Paperwork Reduction Act of 1980. As required by section 3504(h) of the Paperwork Reduction Act of 1980, we have submitted a copy of this proposed rule to OMB for its review of these information collection requirements. Organizations and individuals desiring to submit comments on the information recordkeeping requirements should

direct them to the OMB official whose name appears in the "ADDRESSES" section of this preamble. The majority of hospitals participating in Medicare have filed computer prepared cost reports prior to the effective date of this regulation (approximately 90 percent). These providers would now have to file a diskette containing the required cost report data in a standard format. This diskette would contain input data only. We believe that minimal time would be needed for hospitals to become familiar with the revised software furnished by their cost reporting vendor. The remaining 10 percent of the hospitals previously filed manually prepared cost reports. While these hospitals would initially experience an additional reporting burden, we believe that once they are familiar with electronic reporting, there would no longer be an additional burden and there may even be a decrease in burden since the time needed to compute the cost report would no longer be required.

List of Subjects in 42 CFR Part 413

Administrative practice and procedure, Health facilities, Health professions, Kidney diseases, Laboratories, Medicare, Nursing homes, Reporting and recordkeeping requirements, Rural areas, X-rays.

42 CFR part 413 is amended as set forth below:

PART 413—PRINCIPLES OF REASONABLE COST REIMBURSEMENT; PAYMENT FOR END-STAGE RENAL DISEASE SERVICES

A. The authority citation for part 413 continues to read as follows:

Authority: Sec. 1102, 1814(b), 1815, 1833(a), 1861(v), 1871, 1881, and 1886 of the Social Security Act (42 U.S.C. 1302, 1395f(b), 1395g, 1395l(a), 1395x(v), 1395hh, 1395rr, and 139ww) and sec. 104(c) of Pub. L. 100–360 as amended by sec. 608(d)(3) of Pub. L. 100–485 (42 U.S.C. 1395ww (note)) and sec. 101(c) of Pub. L. 101–234.

B. A new paragraph (f)(4) is added to § 413.24 to read as follows:

§ 413.24 Adequate cost data and cost finding.

* * * * *

(f) *Cost reports.* * * *

(4) *Electronic submission of cost reports.* (i) Effective for cost reporting periods beginning on or after October 1, 1989, a hospital is required to submit its cost reports in a standardized electronic format. The hospital's electronic program must be able to produce the HCFA standardized output file that can be read by the automated system of the hospital's intermediary. This electronic file, which must contain the input data required to complete the cost report and the data required to pass specified edits, is forwarded to the fiscal intermediary for processing through its system.

(ii) A hospital may request a delay or waiver of the electronic submission requirement in paragraph (f)(4)(i) of this section if this requirement would cause a financial hardship. The hospital must submit a written request for delay or wavier with necessary supporting documentation to its intermediary at least 120 days prior to the end of its cost reporting period. The intermediary reviews the request and forwards it, with a recommendation for approval or denial, to HCFA central office within 30 days from receipt of the request. HCFA central office either approves or denies the request and notifies the intermediary within 60 days of receipt of the request.

* * * * *

(Catalog of Federal Domestic Assistance Program No. 13.773, Medicare—Hospital Insurance)

Dated: August 29, 1991.

Gail R. Wilensky,

Administrator, Health Care Financing Administration.

Approved: September 27, 1990.

Louis W. Sullivan,

Secretary.

[FR Doc. 91–19721 Filed 8–16–91; 8:45 am]

BILLING CODE 4120–01–M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 91–237, RM–7744]

Radio Broadcasting Services; Bayboro, NC

AGENCY: Federal Communications Commission.

ACTION: Proposed Rule.

SUMMARY: The Commission requests comments on a petition filed by Atlantic Broadcasting, Inc. proposing the substitution of Channel 250C3 for Channel 250A at Bayboro, North Carolina. Channel 250C3 can be allotted to Bayboro in compliance with the Commission's minimum distance separation requirements at a site other than that proposed by petitioner at coordinates North Latitude 35–07–18 and West Longitude 76–38–40. In accordance with § 1.420(g) of the Commission's Rules, we will not accept competing expressions of interest in use of Channel 250C3 at Bayboro or require the petitioner to demonstrate the availability of an additional equivalent class channel for use by such parties.

DATES: Comments must be filed on or before October 7, 1991, and reply comments on or before October 22, 1991.

ADDRESSES: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: Dennis F. Begley, Esq., Reddy, Begley & Martin, 2033 M Street, NW., suite 500, Washington, DC 20036, (Counsel to petitioner).

FOR FURTHER INFORMATION CONTACT: Victoria M. McCauley, Mass Media Bureau, (202) 634–6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 91–237, adopted July 31, 1991, and released August 14, 1991. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, Downtown Copy Center, (202) 452–1422, 1714 21st Street, NW., Washington, DC 20036.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio Broadcasting.

Federal Communications Commission.

Andrew J. Rhodes,

Chief, Allocations Branch Policy and Rules Division Mass Media Bureau.

[FR Doc. 91–19774 Filed 8–16–91; 8:45 am]

BILLING CODE 6712–01–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 669

[Docket No. 910793-1193]

RIN 0648-AE17

Shallow-Water Reef Fish Fishery of Puerto Rico and the U.S. Virgin Islands

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Proposed rule.

SUMMARY: The Secretary of Commerce issues a preliminary notice of: (1) Modification of the implementation of scheduled changes in mesh size requirements, and (2) changes in the requirements for degradable panels for fish traps in the shallow-water reef fish fishery, in accordance with the framework procedure of the Fishery Management Plan for the Shallow-Water Reef Fish Fishery of Puerto Rico and the U.S. Virgin Islands (FMP). This notice proposes minimum allowable mesh sizes for fish traps of (1) 1.5 inches (3.8 centimeters) for hexagonal mesh; (2) 1.5 inches (3.8 centimeters) for square mesh through September 13, 1993; and (3) 2.0 inches (5.1 centimeters) for square mesh effective September 14, 1993. In addition, this notice proposes more specific requirements for degradable panels on fish traps. The intended effect is to reduce adverse economic impacts on the industry while still continuing the rebuilding program for the shallow-water reef fish resource, some species of which are overfished.

DATES: Written comments must be received by August 28, 1991.

ADDRESSES: Comments on the proposed rule should be sent to William R. Turner, Southeast Region, NMFS, 9450 Koger Boulevard, St. Petersburg, FL 33702. Copies of the Environmental Assessment and Regulatory Impact Review on this action may be obtained from Miguel Rolon, Executive Director, Caribbean Fishery Management Council, suite 1108, Banco Popular Building, Hato Rey, PR 00918.

FOR FURTHER INFORMATION CONTACT. Miguel Rolon, 809-753-6910.

SUPPLEMENTARY INFORMATION: The shallow-water reef fish fishery is managed under the FMP, prepared by the Caribbean Fishery Management Council (Council), and its implementing regulations at 50 CFR part 669, under authority of the Magnuson Fishery Conservation and Management Act (Magnuson Act). In accordance with the framework procedures approved in Amendment 1 to the FMP, including a report from the Council's Scientific and Statistical Committee and public hearings, the Council recommended changes to the mesh size and degradable panel requirements for fish traps used in the fishery.

Background

Amendment 1 implemented various management measures designed to accomplish the objectives of the FMP, including an increase in the minimum mesh size for fish traps from 1.25 to 2.0 inches (3.2 to 5.1 centimeters), effective September 14, 1991. After approval of Amendment 1, several representatives of the fishing industry and the Government of the U.S. Virgin Islands sharply criticized the scheduled increase in the minimum mesh size and stated that a number of fishermen had stockpiled 1.5-inch (3.8 centimeters) square- and hexagonal-mesh wire to replace traps lost during hurricane Hugo. The commenters noted that regional food preferences exist for smaller fish that would be able to escape through the larger mesh and that implementation of the 2.0-inch (5.1 centimeters) mesh size on September 14, 1991, would adversely impact the fishing industry and consumers. It was also noted that the rationale for approval of the 2.0-inch (5.1 centimeters) mesh size under Amendment 1 included a study conducted in south Florida that may be inappropriate for the more diverse species composition of Puerto Rico and the U.S. Virgin Islands.

Summary of Hearings Held June 10-13, 1991

There were four public hearings (two in Puerto Rico, one in St. Croix, and one in St. Thomas, U.S. Virgin Islands) on the proposed action. Little interest was shown in Puerto Rico as only one fisherman attended and his concerns were not related to the proposed action. Considerable interest was generated in the U.S. Virgin Islands where approximately 18 fishermen provided testimony. Major comments follow.

Generally, most fishermen opposed a transition to 2.0-inch (5.1 centimeters) mesh wire because (1) they had stockpiled 1.5-inch (3.8 centimeters) mesh wire after hurricane Hugo, and (2) the larger mesh would not catch some of the species in demand by consumers in that area. Fishermen indicated that there is a preference for some of the smaller species of fish. Part of this is related to the incidence of ciguatera in some of the larger individuals of certain species, but apparently some inhabitants of the Caribbean prefer smaller fish as food.

There was widespread opposition to the proposed requirement of two escape panels in each trap. Fishermen testified that two panels were unnecessary and presented an inconvenience as the trap would have to be turned over to secure the second panel (with jute twine) and this would take more time. (The Council believes that two panels are the only way to effectively guard against ghost fishing of lost or abandoned traps.)

Fishermen also expressed considerable opposition to phasing out of 1.5-inch (3.8 centimeters) square mesh wire in favor of larger mesh sizes based upon studies in south Florida. They maintained that species composition is dramatically different in the U.S. Virgin Islands and that studies should be conducted in the Caribbean before resorting to such costly measures. The proposed action basically is responsive to the concerns of the fishermen while not compromising the Council's concerns for the conservation of the resource.

Proposed Management Measures

The Council has proposed action under the FMP's framework procedure that would modify the schedule for implementation and, thus, reduce short-term economic impacts on the fish trap fishery. The Council proposed to allow 1.5-inch (3.8 centimeters) bare-wire hexagonal mesh or 2.0-inch (5.1 centimeters) bare-wire square mesh, or coated-wire mesh with openings of equal size. The hexagonal mesh must have a minimum mesh size of 1.5 inches (3.8 centimeters) in the smallest dimension measured between centers of strands. Rectangular bare-wire mesh, and bare-wire mesh other than hexagonal or square, must have a minimum mesh size of 2.0 inches (5.1 centimeters) in the smallest dimension measured between centers of strands. Traps with mesh openings other than bare wire must have a minimum mesh size of 2.0 inches (5.1 centimeters) in the smallest dimension of the opening, rather than between centers of strands.

In addition, the Council has proposed action under the FMP's framework procedure that would modify the requirements for escape panels in fish traps. To provide protection against continued fishing by lost traps (ghost fishing), the regulations currently include a requirement for a single degradable escape panel and authorize an assortment of degradable materials, some of which have an untested or lengthy life expectancy. The Council proposes that: (1) An escape panel must be located on each of two opposite sides of the trap, excluding the top, bottom,

and side containing the trap entrance; (2) the opening covered by the panel must measure not less than 8 inches (20.3 centimeters) by 8 inches; (3) the mesh size of the panel may not be smaller than the mesh size of the trap; and (4) the panel must be attached to the trap with untreated jute with a diameter not exceeding ⅛ inch (.3 centimeter). These changes will offer greater protection against ghost fishing, thereby reducing fishing mortality from current levels, and, combined with the changes in mesh sizes, should result in biological benefits to the fishery.

To accommodate fishermen who had obtained large quantities of 1.5-inch (3.8 centimeters) square-mesh wire, the Council proposes to allow use of such wire as an interim measure, through September 13, 1993. The use of 1.5-inch (3.8 centimeters) square mesh is authorized only as an interim measure because the Council heard testimony that use of 1.5-inch (3.8 centimeters) square-mesh wire was causing excessive fishing mortality and resource waste. To reduce that mortality and waste during the interim period, use of traps with 1.5-inch (3.8 centimeters) square-mesh wire would be conditioned on such traps having two degradable panels located and attached as described above but with panel openings of not less than 9 inches (22.9 centimeters) by 9 inches (22.9 centimeters) and with panel mesh not smaller than 2.0-inch (5.1 centimeters) square wire.

Analysis of Impacts

Most fishermen in St. Croix, where approximately 88 percent (14 of 16 interviewed) of the trap fishermen had stocked wire after the hurricane, use 1.5-inch (3.8 centimeters) hexagonal wire. A 1988 census by the Puerto Rico Fisheries Resource Laboratory indicated that about 75 percent of the Puerto Rican fish trap fishermen were using 1.25-inch (3.2 centimeters) hexagonal wire, and therefore would be affected by increasing the mesh size to 1.5 inches (3.8 centimeters). The remainder of the fishermen use 1.5-inch (3.8 centimeters) wire or larger. Increasing mesh size to 2.0 inches (5.) centimeters), as scheduled under Amendment 1, would impact approximately 90 percent of the Puerto Rican fish trappers and nearly all of the St. Croix trap fishermen, causing widespread adverse economic impacts exceeding those associated with the current proposal.

About 75 percent (13 of 17 interviewed) of the trap fishermen on St. Thomas currently use 1.5-inch (3.8 centimeters) square mesh. According to a recent survey by the U.S. Virgin Islands Department of Fish and Wildlife, most of these traps are constructed of vinyl-coated wire. The proposed phase-out of 1.5-inch (3.8 centimeters) square-mesh wire by September 14, 1993, should have minimal economic impacts, since the life span of these traps averages about 2 years. A phase-out of 5 years previously considered by the council raised concerns about the possible purchase of additional mesh of this size. Consequently, the Council selected a 2-year phase-out schedule.

Catch rates and catch composition of various mesh sizes and shapes have not been evaluated off Puerto Rico and the U.S. Virgin Islands. During the phase-out period for the 1.5-inch (3.8 centimeters) square-mesh wire, the Council will pursue studies off Puerto Rico and the U.S. Virgin Islands to evaluate the effectiveness of various mesh sizes and configurations as suggested at the public hearings. The scheduled elimination of 1.5-inch square-mesh wire may be affected by these studies.

As indicated in the Environmental Assessment, the proposed adjustments will benefit the resource by a ¼-inch (.64 centimeters) increase in the mesh size, thereby increasing escapement of smaller size reef fish. Although the action cannot be quantified, the proposed requirement of two degradable panels, coupled with the increase in mesh size, should more than offset any additional escapement offered by immediate implementation of a 2.0-inch (5.1 centimeters) mesh requirement.

Other Matters

This action is authorized by the FMP and complies the E.O. 12291.

List of Subjects in 50 CFR Part 669

Fisheries, Fishing.

Dated: August 13, 1991.

Samuel W. McKeen,

Acting Assistant Administrator for Fisheries, National Marine Fisheries Service.

For the reasons set forth in the preamble, 50 CFR part 669 is proposed to be amended to read as follows:

PART 669—SHALLOW-WATER REEF FISH FISHERY OF PUERTO RICO AND THE U.S. VIRGIN ISLANDS

1. The authority citation for part 669 continues to read as follows:

Authority: 16 U.S.C. 1801 *et seq.*

2. In § 669.7, paragraphs (h) and (i) are revised to read as follows:

§ 669.7 Prohibitions.

* * * * *

(h) Use or possess in the EEZ a fish trap with a mesh size smaller than the minimum mesh sizes specified in § 669.24(a).

(i) Use or possess in the EEZ a fish trap that does not have the degradable panels specified in § 669.24(a).

* * * * *

3. In § 669.24, paragraph (a) is revised to read as follows:

§ 669.24 Gear limitations.

(a) *Fish traps*—(1) *Mesh size.* A fish trap used or possessed in the EEZ that has hexagonal mesh openings of bare wire must have a minimum mesh size of 1.5 inches (3.8 centimeters), in the smallest dimension measured between centers of strands. A fish trap used or possessed in the EEZ that has rectangular mesh openings of bare wire, or that has bare wire mesh openings other than hexagonal or square, must have a minimum mesh size of 2.0 inches (5.1 centimeters), in the smallest dimension measured between centers of strands. A fish trap used or possessed in the EEZ that has mesh openings other than bare wire, such as plastic and coated-wire traps, must have a minimum mesh size of 2.0 inches (5.1 centimeters), in the smallest dimension of the opening, rather than between centers of strands.

(2) *Degradable panels.* A panel must be located on each of two opposite sides of the trap, excluding the top, bottom, and side containing the trap entrance. The opening covered by the panel must measure not less than 8 inches (20.3 centimeters) by 8 inches (20.3 centimeters). The mesh size of the panel may not be smaller than the mesh size of the trap, and the panel must be attached to the trap with untreated jute with a diameter not exceeding ⅛ inch (.3 centimeter). An access door may serve as one of the panels, provided it is on an appropriate side, it is hinged only at its bottom, and its only other fastening is by jute not exceeding ⅛ inch (.3 centimeters) in diameter at the top of the door so that the door will fall open when the jute degrades. Jute used to secure a panel may not be wrapped or overlapped.

(3) *Interim exception.* Paragraphs (a)(1) and (a)(2) of this section notwithstanding, through September 13, 1993, a fish trap that has rectangular mesh openings with a minimum mesh size of 1.5 inches (3.8 centimeters), in the

smallest dimension measured between centers of strands, may be used or possessed in the EEZ. The degradable panels on such a trap must cover an opening not less than 9 inches (22.9 centimeters) by 9 inches (22.9 centimeters), and the mesh of the panels may not be smaller than 2-inch (5.1-centimeter) square-mesh wire. The location and attachment of the panels must be as specified in paragraph (a)(2) of this section.

* * * * *

[FR Doc. 91–19737 Filed 8–14–91; 12:15 pm]
BILLING CODE 3510–22–M

Notices

Federal Register
Vol. 56, No. 160
Monday, August 19, 1991

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

ACTION

Foster Grandparent Program and Senior Companion Program, Income Eligibility Levels

AGENCY: Action.

ACTION: 1991 SSI-adjusted income eligibility levels for the Foster Grandparent and Senior Companion Programs.

SUMMARY: This Notice adjusts the 1991 income eligibility levels for the Foster Grandparent and Senior Companion Programs published in the **Federal Register**, March 21, 1991 (56 FR 11984).

This adjustment is based on the 1991 state supplementations to Supplemental Security Income (SSI) disseminated by the Social Security Administration in July 1991. The revised income eligibility level for each state adopts the higher amount of either: (a) 125% of the Department of Health and Human Services (DHHS) Poverty Income Guidelines, or (b) 100% of the DHHS Guidelines plus the current amount of each state supplementation to SSI. Amounts are rounded to the next highest multiple of $5.00.

Persons whose income met the eligibility levels published on March 21, 1991, shall remain eligible under the conditions provided in current policy. The adjusted eligibility levels in this Notice shall apply to persons enrolling in the Programs on or after its effective date.

SCHEDULES OF INCOME ELIGIBILITY LEVEL: FOSTER GRANDPARENT PROGRAM AND SENIOR COMPANION PROGRAM

[For the following SSI-adjusted states]

State	One	Two	Three	Four	Five	Six	Seven	Eight
AK	$12,480	$17,230	$20,050	$22,870	$25,690	$28,510	$31,515	$35,040
CA	10,115	17,200	19,460	21,720	23,980	26,240	28,500	30,760
CO	8,275	12,410	14,670	16,930	19,575	22,400	25,225	28,050
CT	10,930	15,145	17,405	19,665	21,925	24,185	26,445	28,705
MA	8,275	11,305	13,925	16,750	19,575	22,400	25,225	28,050

(For household units with more than eight members, add $3,525 in Alaska, add $2,260 in California and Connecticut, and add $2,825 in Colorado and Massachusetts for each additional member.)

The following income eligibility levels reflecting 125% of the DHHS Poverty Income Guidelines were published in the March 21, 1991 **Federal Register** and remain in effect. The levels apply to all states, the District of Columbia, Puerto Rico, and the Virgin Islands (except Alaska, California, Colorado, Connecticut, and Massachusetts).

HOUSEHOLD UNITS OF

States	One	Two	Three
All	$8,275	$11,100	$13,925
Hawaii	9,515	12,765	16,015

(For household units with more than three members, add $2,825 in "All" states and $3,250 in Hawaii for each additional member.)

EFFECTIVE DATE: August 19, 1991.

FOR FURTHER INFORMATION CONTACT: Rey Tejada, Program Officer, Foster Grandparent Program, 1100 Vermont Avenue, NW., suite 6100, Washington, DC 20525 or telephone (202) 606–4849.

SUPPLEMENTARY INFORMATION: ACTION programs are authorized pursuant to section 211 and 213 of the Domestic Volunteer Service Act of 1973, as amended Public Law 93–113, 87 Stat. 394. The income eligibility levels are determined by the currently applicable guidelines published by DHHS pursuant to sections 652 and 673(2) of the Omnibus Budget Reconciliation Act of 1981 which requires poverty income guidelines to be adjusted for Consumer Price Index changes.

Signed in Washington, DC on August 13, 1991.

Jane A. Kenny,

Director.

[FR Doc. 91–19741 Filed 8–16–91; 8:45 am]

BILLING CODE 6050–28–M

DEPARTMENT OF AGRICULTURE

Forest Service

Rock Willow and Muddy Creek Timber Sale Proposals, Wallowa-Whitman National Forest, Baker County, Oregon

AGENCY: Forest Service, USDA.

ACTION: Revision of a notice of intent to prepare an environmental impact statement.

SUMMARY: Dates of release of the draft and final environmental impact statements have been revised for the above projects on the Baker Ranger District, Wallowa-Whitman National Forest. The draft document is now expected to be complete by November, 1992. The final document is expected to be published in February, 1993 (previous NOI 55 FR 51739). The delay is due to the fact that additional streams within the analysis area are being studied for possible inclusion in the National Wild and Scenic Rivers system. This study must be completed before an analysis, including timber sale projects, can be completed.

In addition, the responsible official changed from the Forest Supervisor to the District Ranger.

FOR FURTHER INFORMATION CONTACT: Direct questions about the proposed action and EIS to Joanne Britton, NEPA Coordinator, 3165 10th St., Baker City, OR 97814, (503) 523–4476.

Dated: August 1, 1991.

R. M. Richmond,

Forest Supervisor.

[FR Doc. 91–19726 Filed 8–16–91; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF COMMERCE

Agency Information Collection Under Review by the Office of Management and Budget (OMB)

DOC has submitted to OMB for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35).

Agency: Patent and Trademark Office (PTO).

Title: Deposit of Biological Materials for Patent Purposes.

Form Number: OMB Number: 0651–0022.

Type of Request: Extension.

Burden: 2,005 respondents; 2,025 reporting hours. Average is about 65 minutes.

Needs and Uses: Information on the deposit of biological material is necessary for the PTO to determine that the patent laws have been complied with where the invention relies on access to the material. Once a patent is granted on such an invention, the information will be used by the public to find the location of the depository in order to obtain samples of the deposited material.

Affected Public: Individuals; businesses or other for profit organizations, Federal agencies or employees; non-profit institutions; small businesses or organizations.

Frequency: On occasion.

Respondent's Obligation: Required to obtain a benefit.

OMB Desk Officer: Maya A. Bernstein, 395–3785.

Copies of the above information collection proposal can be obtained by calling or writing DOC Clearance Officer, Edward Michals, (202) 377–3271, Department of Commerce, room 5327, 14th and Constitution Avenue, NW., Washington, DC 20230.

Written comments and recommendations for the proposed information collection should be sent to Maya A. Bernstein, OMB Desk Officer, room 3235, New Executive Office Building, Washington, DC 20503.

Dated: August 13, 1991.

Edward Michals,

Departmental Clearance Officer, Office of Management and Organization.

[FR Doc. 91–19742 Filed 8–16–91; 8:45 am]

BILLING CODE 3510–CW–M

International Trade Administration

[A–588–045]

Steel Wire Rope From Japan; Partial Termination of Antidumping Duty Administrative Reviews

AGENCY: International Trade Administration/Import Administration, Department of Commerce.

ACTION: Notice of partial termination of antidumping duty administrative reviews.

SUMMARY: On September 21, 1987 (52 FR 35466), the Department of Commerce initiated administrative reviews of the antidumping finding on steel wire rope from Japan imported by J. Gerber and exported by Dia Steel Wire during the period March 1, 1975 through March 31, 1978, and Sanyo Shokai (Sanyo Co., Ltd.) during the period October 1, 1975 through March 31, 1979. The Department of Commerce has now decided to terminate these reviews.

EFFECTIVE DATE: August 19, 1991.

FOR FURTHER INFORMATION CONTACT: Lisa Boykin or Robert J. Marenick, Office of Antidumping Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone (202) 377–5255.

SUPPLEMENTARY INFORMATION:

Background

On September 21, 1987, the Department of Commerce (the Department) published a notice of initiation of various administrative reviews of the antidumping finding on steel wire rope from Japan (38 FR 28571, October 15, 1973). This notice stated that we would review entries for certain exporters during various periods.

On June 27, 1991, J. Gerber & Company, Inc., withdrew its request for review of Dia Steel Wire for the period March 1, 1975 through March 31, 1978, and Sanyo Shokai (Sanyo Co., Ltd.) for the period October 1, 1975 through March 31, 1979. The petitioner, the Committee of Domestic Steel Wire Rope and Specialty Cable Manufactures, in a letter dated July 15, 1991, indicated that it had no objections to the withdrawal request. Although generally a request for review must be withdrawn not later than 90 days after the date of publication of the notice of initiation of the requested review, the time limit may be extended if the Secretary decides that it is reasonable to do so (19 CFR 353.22(a)(5)). Given the acquiescence of both the requesting party and the petitioner to the termination, the burden of completing these reviews on the parties and the Department, the fact that substantial work must be undertaken by all parties to complete the reviews, and the relative remoteness of the review periods in question, we deem it reasonable to extend the time limit in this case and allow withdrawal.

Accordingly, the Department has determined to terminate the reviews listed above. This notice is in accordance with section 751(a)(1) of the Tariff Act of 1930, as amended, (19 U.S.C. 1675(a)) and § 353.22(a)(5) of the Department's regulations (19 CFR 353.22(a)(5)).

Dated: August 7, 1991.

Joseph A. Spetrini,

Deputy Assistant Secretary for Compliance.

[FR Doc. 91–19780 Filed 8–16–91; 8:45 am]

BILLING CODE 3510–DS–M

Short-Supply Review; Certain Austenitic Manganese Steel Plate

AGENCY: Import Administration/ International Trade Administration, Commerce.

ACTION: Notice of short-supply review and request for comments; certain austenitic manganese steel plate.

SUMMARY: The Secretary of Commerce ("Secretary") hereby announces a review and request for comments on a short-supply request for 212.75 net tons of various sizes of certain austenitic manganese steel plate for August 1991-March 1992 under Article 8 of the Arrangement Between the European Coal and Steel Community and the European Economic Community, and the Government of the United States of America Concerning Trade in Certain Steel Products.

SHORT-SUPPLY REVIEW NUMBER: 56.

SUPPLEMENTARY INFORMATION: Pursuant to section 4(b)(3)(B) of the Steel Trade Liberalization Program Implementation Act, Public Law No. 101–221, 103 Stat. 1886 (1989) ("the Act"), and § 357.104(b) of the Department of Commerce's Short-Supply Procedures, 19 CFR 357.104(b) ("Commerce's Short-Supply Procedures"), the Secretary hereby announces that a short-supply determination is under review with respect to certain austenitic manganese steel plate. On August 13, 1991, the Secretary received an adequate petition from Earle M. Jorgensen Company ("Jorgensen") requesting a short-supply allowance for 212.75 net tons of this product for August 1991–March 1992 under Article 8 of the Arrangement Between the European Coal and Steel Community and the European Economic Community and the Government of the

United States of America Concerning Trade in Certain Steel Products. Jorgensen has requested short supply because this product is not produced in the United States and because its potential offshore supplier has insufficient regular export licenses available.

The requested material meets the following specifications:

Thickness: ¼ to ¾ inch.

Width: 60 inches to 96 inches.

Length: 120 inches to 240 inches.

Chemistry: Mn, 11 to 14%; C, 1 to 1.25%; Si, ≤0.60%; P, ≤0.04%; S, ≤0.05%; Cr, ≤0.50%.

Hardness: Increases from an initial hardness of approximately 200 BHN to a minimum service hardness of 500 BHN.

Section 4(b)(4)(B)(i) of the Act and § 357.106(b)(1) of Commerce's Short-Supply Procedures require the Secretary to make a determination with respect to a short-supply petition not later than the 15th day after the petition is filed if the Secretary finds that one of the following conditions exists: (1) The raw steelmaking capacity utilization in the United States equals or exceeds 90 percent; (2) the importation of additional quantities of the requested steel product was authorized by the Secretary during each of the two immediately preceding years; or (3) the requested steel product is not produced in the United States. The Secretary finds that this product is not produced in the United States. Therefore, in accordance with section 4(b)(4)(B)(i)(III) of the Act and § 357.106(b)(1)(iii) of Commerce's Short-Supply Procedures, the Secretary is applying a rebuttable presumption that this product is presently in short supply. Unless domestic steel producers provide comments in response to this notice indicating that they can and will supply this product within the requested period of time, provided it represents a normal order-to-delivery period, the Secretary will issue a short-supply allowance not later than August 28, 1991.

COMMENTS: Interested parties wishing to comment upon this review must send written comments not later than August 26, 1991 to the Secretary of Commerce, Attention: Import Administration, room 7866, U.S. Department of Commerce, Pennsylvania Avenue and 14th Street NW., Washington, DC 20230. All documents submitted to the Secretary shall be accompanied by four copies. Interested parties shall certify that the factual information contained in any submission they make is accurate and complete to the best of their knowledge.

Any person who submits information in connection with a short-supply review may designate that information, or any part thereof, as proprietary, thereby requesting that the Secretary treat that information as proprietary. Information that the Secretary designates as proprietary will not be disclosed to any person (other than officers or employees of the United States Government who are directly concerned with the short-supply determination) without the consent of the submitter unless disclosure is ordered by a court of competent jurisdiction. Each submission of proprietary information shall be accompanied by a full public summary or approximated presentation of all proprietary information which will be placed in the public record. All comments concerning this review must reference the above-noted short-supply review number.

FOR FURTHER INFORMATION CONTACT: Sally A. Craig or Richrd O. Weible, Office of Agreements Compliance, Import Administration, U.S. Department of Commerce, room 8766, Pennsylvania Avenue and 14th Street, NW., Washington, DC 20230, (202) 377–0165 or (202) 377–0159.

Dated: August 14, 1991.

Eric I. Garfinkel,

Assistant Secretary for Import Administration.

[FR Doc. 91–19873 Filed 8–16–91; 8:45 am]

BILLING CODE 3510–DS–M

United States-Canada Free-Trade Agreement, Article 1904 Binational Panel Reviews; Completion of Panel Review

AGENCY: United States-Canada Free-Trade Agreement, Binational Secretariat, United States Section, International Trade Administration, Department of Commerce.

ACTION: Notice of completion of panel review of final determination in the scope exclusion request made by the Department of Commerce, International Trade Administration, Import Administration, respecting Oil Country Tubular Goods from Canada, Secretariat File No. USA–91–1904–01.

SUMMARY: Pursuant to Rules 73(2) and 80(1)(a) of the Article 1904 Panel Rules ("Rules"), the Panel Review of the final determination described above was completed on August 9, 1991, the date following the filing of a consent motion to terminate the binational panel review of this matter.

FOR FURTHER INFORMATION CONTACT: James R. Holbein, United States Secretary, Binational Secretariat, suite 4012, 14th and Constitution Avenue, Washington, DC 20230, (202) 377–5438.

SUPPLEMENTARY INFORMATION: On August 8, 1991, The Algoma Steel Corporation, Limited, filed a Notice of Consent Motion requesting termination of Panel Review with the United States Section of the binational Secretariat. The Algoma Steel Corporation, Limited, also filed an affidavit stating that all other participants consented to the termination of the binational panel review.

Rule 73(2) provides that "where a Notice of Motion requesting termination of a panel review filed by a participant is consented to by all the participants and an affidavit to that effect is filed, or where all participants file Notices of Motion requesting termination, the panel review is terminated and, if a panel has been appointed, the panelists are discharged."

Rule 80(1)(a) provides that the termination shall be effective on the day after the day on which the motion is filed. Pursuant to the authorities cited above, this Notice of Completion of Panel Review was effective on August 9, 1991.

Dated: August 14, 1991.

James R. Holbein,

United States Secretary, FTA Binational Secretariat.

[FR Doc. 91–19779 Filed 8–16–91; 8:45 am]

BILLING CODE 3510–GT–M

Georgia State University; Decision on Application for Duty-Free Entry of Scientific Instrument

This decision is made pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, 80 Stat. 897; 15 CFR part 301). Related records can be viewed between 8:30 a.m. and 5 p.m. in room 4204, U.S. Department of Commerce, 14th and Constitution Avenue NW., Washington, DC.

Docket Number: 91–063. *Applicant:* Georgia State University, Atlanta, GA 30303. *Instrument:* Peltier Cooled CCD Camera. *Manufacturer:* Wright Instruments, Ltd., United Kingdom. *Intended Use:* See notice at 56 FR 23287, May 21, 1991.

Comments: No comments have been received with respect to this application. *Decision:* Application approved. No instrument or apparatus of equivalent scientific value to the foreign instrument, for such purposes as this instrument is intended to be used, was being manufactured in the United States at the time the foreign instrument was

ordered January 17, 1991. *Reasons:* The foreign instrument provides operation to −73 °C with a dark current of 0.005 counts per pixel per second. The National Institute of Standards and Technology advises that (1) the capability of the foreign instrument described above is pertinent to the applicant's intended purpose and (2) it knows of no instrument or apparatus of equivalent scientific value to the foreign instrument for the applicant's intended use which was being manufactured in the United States at the time the foreign instrument was ordered.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign instrument, for such purposes as this instrument is intended to be used, which was being manufactured in the United States at the time the foreign instrument was ordered.

Frank W. Creel,

Director, Statutory Import Programs Staff.

[FR Doc. 91–19781 Filed 8–16–91; 8:45 am]

BILLING CODE 3510–DS–M

Michigan State University, et al.; Applications for Duty-Free Entry of Scientific Instruments

Pursuant to section 6(c) of the Educational, Scientific and Cultural Materials Importation Act of 1966 (Pub. L. 89–651; 80 Stat. 897; 15 CFR part 301), we invite comments on the question of whether instruments of equivalent scientific value, for the purposes for which the instruments shown below are intended to be used, are being manufactured in the United States.

Comments must comply with § 301.5(a) (3) and (4) of the regulations and be filed within 20 days with the Statutory Import Programs Staff, U.S. Department of Commerce, Washington, DC 20230. Applications may be examined between 8:30 a.m. and 5 p.m. in room 4204, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC.

Docket Number: 91–109. *Applicant:* Michigan State University, Department of Geological Services, 206 Natural Science Building, East Lansing, MI 48824–1115. *Instrument:* Mass Spectrometer, Model PRISM Series II. *Manufacturer:* VG Isotech, United Kingdom. *Intended Use:* The instrument will be used for isotopic studies of organic materials isolated from fossils, particulate organic material, microbial biomass and inorganic nutrients such as ammonium nitrate, and dissolved inorganic carbon isolated from aqueous or marine environments, small samples of nitrate, ammonium, dissolved organic matter and DNA isolated from microbial populations, samples of water from various aqueous environments, rock samples from the Michigan basin, samples from groundwater and streams. In addition, the instrument will be used in various geochemistry courses to demonstrate techniques associated with isotopic analysis or for completion of laboratory exercises. *Application Received by Commissioner of Customs:* July 22, 1991.

Docket Number: 91–110. *Applicant:* Western Michigan Institute, Kalamazoo, MI 49008. *Instrument:* Mass Spectrometer, Model S/001. *Manufacturer:* Fisons—VG Instruments, United Kingdom. *Intended Use:* The instrument will be used for graduate research projects in geology, chemistry and biology for the tracking of chemical species in geologic, environmental and biological samples. The materials to be studied will be solids (i.e. soils, rocks, etc.), liquids (i.e. H_2O, plant fluids), and gases (i.e. atmospheric gases, soil gases, etc.). Experiments will be conducted on chemical reaction, geochemical and biochemical processes in the environment. Established objectives in individual research projects on the hydrologic cycle, geochemical processes, organic matter diagenesis in hydrogeologic and biological systems. The instrument will also be used for educational purposes in courses with the need for isotope geochemical instrumentation: Geology 512—Hydrogeology, Geology 600—Hydrogeochemistry, Chemistry 525—Techniques in Water Analysis, Geology 700—Masters Thesis and Geology 730—Doctoral Dissertation. *Application Received by Commissioner of Customs:* July 24, 1991.

Docket Number: 91–111. *Applicant:* University of Washington, Department of Chemistry, Mail Stop BG–10, Seattle, WA 98195. *Instrument:* Mass Spectrometer, Model Profile HV–3. *Manufacturer:* Kratos Analytical, Inc., United Kingdom. *Intended Use:* The instrument will be used for the investigation of varied materials or phenomena including but not limited to the following:

(1) Molecular Pharmacology—drug/receptor complexes, enzyme/coenzyme complexes, terpenoid constituents of liverworts.

(2) Drug Interactions with Valproic Acid—valproic acid and its metabolites.

(3) Synthesis and study of theoretically interesting molecules—alkenes containing pyramidalized double bonds, cyclopropenyl carbanions.

(4) Bioorganic and natural products chemistry—intermediates and products in the biosynthesis of ergot alkaloids, enantiomers of "chiral malonate" and related compounds, orsellinic acid, pyridoxal phosphate-dependent amino acid racemases.

(5) Rational Design of Enzyme Inhibitors—enzyme inhibitors and related compounds.

(6) Organic and Bioorganic Chemistry—ovothiols.

(7) Studies on Drug Metabolism and Receptor Binding Agents—intermediates in the synthesis of electrophilic ligands for subclasses of opioid receptors.

From an educational perspective the objective of the research carried out on this instrument is to provide emerging scientists with firsthand knowledge of and experience with instrumental techniques at the leading edge of available technology. *Application Received by Commissioner of Customs:* July 24, 1991.

Docket Number: 91–112. *Applicant:* Vanderbilt School of Medicine, 21st Avenue South at Garland, Nashville, TN 37232–2250. *Instrument:* Micromanipulator, Model MK 1. *Manufacturer:* Singer Instrument Co., Ltd., United Kingdom. *Intended Use:* The instrument will be used for studies of Zenophus Oocytes in diabetes related medical research. In addition, the instrument will be used for educational purposes in an endocrine fellowship program designed to train medical doctors in research techniques. *Application Received by Commissioner of Customs:* July 24, 1991.

Docket Number: 91–113. *Applicant:* Woods Hole Oceanographic Institition, Woods Hole, MA 02543. *Instrument:* Directional Wave Measuring Buoy. *Manufacturer:* Seatex, A/S, Norway. *Intended Use:* The instrument will be ued in a field experiment to examine the impact of near-surface processes and structures on acoustic propagation. The experiment will include preparation, deployment, and recovery of a surface mooring. The buoy of that mooring would be instrumented with current meters and temperature recorders. The data from the instruments will be processed and analyzed to provide records of the meteorological forcing, of the surface wave field, of the near-surface currents, and of the vertical profile of temperature in the upper ocean. *Application Received by Commissioner of Customs:* July 24, 1991.

Docket Number: 91–115. *Applicant:* University of California, Riverside, Material Management Department, Riverside, CA 92521. *Instrument:* Chlorophyll Fluorescence Measuring System. *Manufacturer:* Heinz Walz GmbH, West Germany. *Intended Use:*

The instrument will be used to determine the following:

(i) The quantity of oxygen-evolving Photosystem II proteins in whole algal cells and in thylakoid membrane extracts from algal cells and spinach leaves.

(ii) The rate of electron transfer between cofactors located in Photosystem II proteins while these proteins are located in whole cells, membrane extracts, or protein complexes.

(iii) The rate of charge recombination between the primary pigments in Photosystem II proteins after photochemistry has been initiated by a 10 μsec duration xenon flash.

The instrument will also be used each academic quarter in a course that teaches gradute students how to analyze the photosynthetic capacity of plants and algae (in terms of oxygen evolution). *Application Received by Commissioner of Customs:* July 26, 1991.

Docket Number: 90–224R. *Applicant:* University of Maine, Department of Geological Sciences, Sawyer Research Center, Orono, ME 04469. *Instrument:* Mass Spectrometer, Model SIRA Series II. *Manufacturer:* VG Isotech Ltd., United Kingdom. Original notice of this resubmitted application was published in the Federal Register of February 1, 1991.

Docket Number: 91–114. *Applicant:* University of Arizona, Department of Chemistry, Tucson, AZ 85721. *Instrument:* Electron Spin Resonance Spectrometer, Model ESP 300E. *Manufacturer:* Bruker Analytische Messentchnik GmbH, West Germany. *Intended Use:* The instrument will be used for several diverse projects including:

1. Multiple frequency EPR and ENDOR investigations of model heme complexes, bis-histidine coordinated cytochromes b and c, and mixed metal cobalt-substituted hemoglobins;

2. EPR and ENDOR investigations of newly isolated c-type cytochromes and of mutant cytochromes c produced by site-directed mutagenesis;

3. Multiple frequency EPR and ENDOR investigations of the molybdenum and heme centers of sulfite oxidase and model molybdenum(v) complexes;

4. EPR investigations of photochemically or electrochemically produced radicals and organosulfur compounds and investigations of copper complexes of organosulfur compounds;

5. EPR studies of the quenching of the intrinsic fluorescence of model membrane-bound peptide or protein residues due to the presence of spin labels of lipids in the model membranes;

6. EPR investigations of the kinetics of polymerization of mode membrane components; and

7. EPR investigations of the kinetics of electron transfer processes involving protein-small molecule and protein-protein systems.

Application Received by Commissioner of Customs: July 30, 1991.

Docket Number: 91–116. *Applicant:* Research Foundation for Mental Hygiene at New York State Psychiatric Institute, 722 West 168th Street, New York, NY 10032. *Instrument:* Ultrasound Signal Processor. *Manufacturer:* Ultra Sound Advice, United Kingdom. *Intended Use:* The instrument will be used for studying the ultrasonic vocalizations of infant and juvenile rats elicited by separation from social companions, by cold, and by unfamiliar surroundings. This response constitutes an animal model for the study of the development of anxiety and its brain mechanisms. *Application Received by Commissioner of Customs:* July 30, 1991.

Docket Number: 91–117. *Applicant:* North Carolina State University, Purchases and Stores Division, Box 7212, Raleigh, NC 27695. *Instrument:* Electron Microscope, Model EM–002B. *Manufacturer:* ABT Corporation, Japan. *Intended Use:* The instrument will be used to study a wide variety of solid state materials including metal, ceramics, polymers and electronic materials. There is a particular importance in using the instrument to obtain atomic resolution images of a wide variety of crystalline materials. In addition, the instrument will be used extensively for both formal and informal teaching in the courses MAT 515—Fundamentals of Transmission Electron Microscopy, MAT 512—Scanning Electron Microscopy, MAT 510—Elements of Crystallography and Diffraction and MAT 612—Advanced Scanning Electron Microscopy and Surface Analysis. *Application Received by Commissioner of Customs:* July 31, 1991.

Frank W. Creel,

Director, Statutory Import Programs Staff.

[FR Doc. 91–19782 Filed 8–16–91; 8:45 am]

BILLING CODE 3510–DS–M

National Oceanic and Atmospheric Administration

Western Pacific Fishery Management Council; Public Meetings

AGENCY: National Marine Fisheries Service, NOAA, Commerce.

The Western Pacific Fishery Management Council's (Council) Scientific and Statistical Committee (SSC) will hold public meetings on August 19–20, 1991, at the Hotel King Kamehameha, 75–5660 Palani Road, Kailua-Kona, Hawaii. The meetings will begin at 9 a.m. on August 19 and at 8 a.m. on August 20.

The SSC will make recommendations to the Council on the following agenda items:

Crustaceans: (1) reconsideration of emergency closure; and (2) limited entry and effort reduction (Amendment #7).

Bottomfish: (1) 1990 annual report; (2) alternative management measures for the Main Hawaiian Islands (MHI); and (3) changes to the Northwestern Hawaiian Islands (NWHI) limited entry program, considering economic break-even analysis, and estimates of spawning potential ratio by zone.

Pelagics: (1) 1990 annual report; (2) MHI longline area closure (Amendment #5), and (3) inclusion of tuna (Amendment #6).

Program Planning: (1) tag and release program for Pacific Blue Marlin; (2) catch and effort program for all pelagics fisheries; and (3) billfish and tuna research.

For further information contact Kitty M. Simonds, Executive Director, Western Pacific Fishery Management Council, 1164 Bishop Street, suite 1405, Honolulu, HI 96813; telephone: (808) 523–1368.

Dated: August 13, 1991.

David S. Crestin,

Deputy Director, Office of Fisheries Conservation and Management, National Marine Fisheries Service.

[FR Doc. 91–19712 Filed 8–16–91; 8:45 am]

BILLING CODE 3510–22–M

Western Pacific Fishery Management Council; Public Meetings

AGENCY: National Marine Fisheries Service, NOAA, Commerce.

The Western Pacific Fishery Management Council (Council) and its Standing Committees will hold public meetings on August 20–22, 1991, at the Hotel King Kamehameha, 75–5660 Palani Road, Kailua-Kona, Hawaii.

Council

The Council will convene its 74th public meeting at 9 a.m., on August 21–22, 1991, to hear reports from islanders and government fisheries representatives from American Samoa, Guam, Hawaii and the Northern Mariana Islands. The status of fishery management plans (FMPs) covering crustaceans, bottomfish/ seamount groundfish, precious corals and pelagics will be discussed. The Council also will

discuss and take action, as appropriate, on the report on enforcement of FMP regulations, and test of vessel tracking systems.

The Council will then consider and take action, as appropriate, on the following matters:

Crustaceans: (1) emergency closure of the lobster fishery; and (2) limited entry and effort reduction (Amendment #7).

Bottomfish: (1) management measures for Main Hawaiian Islands (MHI) bottomfish; (2) proposed changes in the Northwestern Hawaiian Islands (NWHI) bottomfish limited entry program; (3) the logbook program for the MWHI; and (4) report on the bottomfish observer program.

Pelagics: (1) 1990 annual report; (2) report on longline permits, logbook and observer data; (3) NWHI longline/monk seal interactions (Amendment #3); (4) moratorium on new entry into the Hawaiian longline fishery (Amendment #4)—

a. Report on limited entry permits and actions based on modifications (refitting),

b. Report on permit transfers,

c. Permit denial issues, and

d. Selection of a Pelagics Review Board:

(5) longline area closures in Guam and the MHI (Amendment #5)—

a. Closure within 30 miles of the 100 fathom contour of Guam, and

b. Refinements concerning the exemption for small vessels, seasonal openings, different size, closures, native rights, and other such matters;

(6) inclusion of tuna in the FMP (Amendment #6; (7) catch and effort information for all user groups for pelagics; and

(8) tag and release program for Pacific Blue Marlin.

Other Business: (1) 1991 and 1992 budget review; (2) marine mammal management regime; (3) tuna and billfish research and management; and (4) other Council business.

The Council will hear public comments during its meeting. The public may respond in writing to the Council, address listed below.

Standing Committees

The Council's Standing Committees will meet on August 20 at 8 a.m. The reports on the following items will be heard and discussed: fishery rights of indigenous people; ecosystems; enforcement; excutive, budget and program; crustaceans bottomfish/seamount groundfish; and pelagics.

For more information contact Kitty M. Simonds, Executive Director, Western Pacific Fishery Management Council, 1164 Bishop Street, suite 1405, Honolulu, HI 96813; telephone: (808) 523–1368.

Dated: August 13, 1991.

David S. Crestin,

Deputy Director, Office of Fisheries Conservation and Management, National Marine Fisheries Service.

[FR Doc. 91–19713 Filed 8–16–91; 8:45 am]

BILLING CODE 3510–22–M

National Telecommunications and Information Administration

National Telecommunications and Information Administration Performance Review Board; Members

Below is a listing of individuals who are eligible to serve on the Performance Review Board in accordance with the National Telecommunications and Information Administration Senior Executive Service (SES) Performance Appraisal System:

Harold G. Kimball
Dennis R. Connors
Richard D. Parlow
William D. Gamble
Neal B. Seitz
Robert J. Mayher
William F. Utlaut
Charles M. Rush
Robert J. Matheson
David Farber
William F. Maher, Jr.
Jean M. Prewitt

Edward A. McCaw,

Executive Secretary, National Telecommunications and Information Administration, Performance Review Board.

[FR Doc. 91–19691 Filed 8–16–91; 8:45 am]

BILLING CODE 3510–BS–M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Amendment of an Import Limit for Certain Cotton and Man-Made Fiber Textile Products Produced or Manufactured in Singapore

August 14, 1991.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs increasing a limit.

EFFECTIVE DATE: August 21, 1991.

FOR FURTHER INFORMATION CONTACT: Jennifer Tallarico, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 377–4212. For information on the quota status of this limit, refer to the Quota Status Reports posted on the bulletin boards of each Customs port or call (202) 535–6736. For information on embargoes and quota re-openings, call (202) 377–3715.

SUPPLEMENTARY INFORMATION:

Authority: Executive Order 11651 of March 3, 1972, as amended; section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854).

The 1991 designated consultation level for Categories 351/651 is being increased.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 55 FR 50756, published on December 10, 1990). Also see 55 FR 51756, published on December 17, 1990.

The letter to the Commissioner of Customs and the actions taken pursuant to it are not designed to implement all of the provisions of the bilateral agreement, but are designed to assist only in the implementation of certain of its provisions.

Auggie D. Tantillo,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

August 14, 1991.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on December 11, 1990, by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain cotton, wool and man-made fiber textile products, produced or manufactured in Singapore and exported during the twelve-month period which began on January 1, 1991 and extends through December 31, 1991.

Effective on August 21, 1991, you are directed to increase to 55,000 dozen [1] the current limit for Categories 351/651 in Group II.

The Committee for the Implementation of Textile Agreements has determined that this action falls within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

Auggie D. Tantillo,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 91–19745 Filed 8–16–91; 8:45 am]

BILLING CODE 3510–DR–F

[1] The limit has not been adjusted to account for any imports exported after December 31, 1990.

Announcement of a Request for Bilateral Textile Consultations on Man-Made Fiber Twill and Sateen Fabric Produced or Manufactured in Korea

August 14, 1991.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Notice.

FOR FURTHER INFORMATION CONTACT: Ross Arnold, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 377–4212. For information on categories on which consultations have been requested, call (202) 377-3740.

SUPPLEMENTARY INFORMATION:

Authority: Executive Order 11651 of March 3, 1972, as amended; section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854).

On July 31, 1991, the Government of the United States requested consultations with the Government of the Republic of Korea regarding imports of man-made fiber twill and sateen fabric in Category 617, produced or manufactured in Korea. This request was made on the basis of the current bilateral agreement between the Governments of the United States and the Republic of Korea.

The United States reserves the right to control imports at the level under paragraph 7 of the agreement. The United States remains committed to finding a solution concerning this category. Should such a solution be reached in consultations with the Government of Korea, further notice will be published in the **Federal Register**.

Anyone wishing to comment or provide data or information regarding the treatment of Category 617, under the agreement with the Government of Korea, or in any aspect thereof, or to comment on domestic production or availability of products included in Category 617, is invited to submit 10 copies of such comments or information to Auggie D. Tantillo, Chairman, Committee for the Implementation of Textile Agreements, U.S. Department of Commerce, Washington, DC 20230; ATTN: Helen L. LeGrande.

Because the consultations are scheduled for August 1991, comments should be submitted promptly. Comments or information submitted in response to this notice will be available for public inspection in the Office of Textiles and Apparel, room H3100, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, DC.

Further comments may be invited regarding particular comments or information received from the public which the Committee for the Implementation of Textile Agreements considers appropriate for further consideration.

The solicitation of comments regarding any aspect of the agreement or the implementation thereof is not a waiver in any respect of the exemption contained in 5 U.S.C. 553(a)(1) relating to matters which constitute "a foreign affairs function of the United States."

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 55 FR 50756, published on December 10, 1990).

Auggie D. Tantillo,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 91–19744 Filed 8–16–91; 8:45 am]

BILLING CODE 3510-DR-F

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

OMB Clearance Request for Computer Generation of Forms by the Public

AGENCY: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Notice of a request for an extension of a currently approved information collection requirement (9000–0104).

SUMMARY: Under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. chapter 35), the Federal Acquisition Regulation (FAR) Secretariat has submitted to the Office of Management and Budget (OMB) a request to review and approve an extension of an information collection requirement concerning Computer Generation of Forms by the Public.

DATES: Comments may be submitted on or before October 18, 1991.

ADDRESSES: Send comments to Mr. Peter Weiss, FAR Desk Officer, OMB, room 3235, NEOB, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Ms. Shirley Scott, Office of Federal Acquisition Policy (202) 501–0168.

SUPPLEMENTARY INFORMATION:

A. Purpose

This rule allows computer generation of forms prescribed by the FAR and by FAR supplements. The rule will ultimately affect several existing OMB clearances and will require reestimation of the burden associated with those clearances. It is anticipated that this rule will reduce the burden on the public associated with acquisition procedures. This rule affects all firms which do business or seek to do business with the Government. Use of computer generated forms is optional. No penalties or incentives are associated with use of the forms.

B. Annual Reporting Burden

The annual reporting burden is estimated as follows: Respondents, 1; responses per respondent, 1; total annual responses, 1; hours per response, 1; and total response burden hours, 1.

C. Obtaining Copies of Proposals

Requester may obtain copies of OMB applications or justifications from General Services Administration, FAR Secretariat (VRS), room 4041, Washington, DC 20405, telephone (202) 501–4755. Please cite OMB Control No. 9000–0104, Computer Generation of Forms by the Public, in all correspondence.

Dated: August 12, 1991.

Beverly Fayson,

FAR Secretariat.

[FR Doc. 91–19695 Filed 8–16–91; 8:45 am]

BILLING CODE 6820-34-M

Department of the Air Force

USAF Scientific Advisory Board; Meeting

August 9, 1991.

The USAF Scientific Advisory Board Hypersonic Technologies Study Group will meet on October 30–November 8, 1991 from 0800 a.m. to 5 p.m. local time at the Von Karman Institute, Brussels, Belgium; British Aerospace Corporation, Stevenage, United Kingdom; Hermes Consortium and ONERA F–4 Wind Tunnel Test Facility, Toulouse, France; Ministry of Science and Research, Bonn, Germany; DLR Shock Tube Test Facility, Goettingen, Germany; and the Saenger Consortium/MBB, Ottobrun, Germany.

The purpose of these meetings is to conduct examinations of the program plans for European hypersonics vehicles—British HOTOL, French Hermes, and German Saenger—and hypersonic test capabilities being developed to support these programs. These meetings will be closed to the

public, in accordance with section 552b(c) of title 5, United States Code, specifically subparagraphs (1) and (4).

For further information, contact the Scientific Advisory Board Secretariat at (703) 697–8404.

Patsy J. Conner,

Air Force Federal Register Liaison Officer.

[FR Doc. 91–19738 Filed 8–16–91; 8:45 am]

BILLING CODE 3910–01–M

USAF Scientific Advisory Board; Meeting

The USAF Scientific Advisory Board's Ad Hoc committee on Air Force Aircraft Jet Engine Manufacturing and Production Proceses will meet on 5–6 September 1991 from 8 a.m. to 5 p.m. at the San Antonio Air Logistics Center, Kelly AFB, Texas. The purpose of this meeting is to gather information concerning aircraft engines and maintenance statistics for the study. The meeting will be closed to the public in accordance with section 552b(c) of title 5, United State Code, specifically subparagraphs (1) and (4) thereof.

For further information, contact the Scientific Advisory Board Secretariat at (703) 697–4811.

Patsy J. Conner,

Air Force Federal Register Liaison Officer.

[FR Doc. 91–19723 Filed 8–16–91; 8:45 am]

BILLING CODE 3910–01–M

DEPARTMENT OF EDUCATION

Proposed Information Collection Requests

AGENCY: Department of Education.

ACTION: Notice of Proposed Information Collection Requests.

SUMMARY: The Director, Office of Information Resources Management, invites comments on the proposed information collection requests as required by the Paperwork Reduction Act of 1980.

DATES: Interested persons are invited to submit comments on or before September 18, 1991.

ADDRESSES: Written comments should be addressed to the Office of Information and Regulatory Affairs, Attention: Dan Chenok: Desk Officer, Department of Education, Office of Management and Budget, 726 Jackson Place, NW., room 3208, New Executive Office Building, Washington, DC 20503. Requests for copies of the proposed information collection requests should be addressed to Mary P. Liggett, Department of Education, 400 Maryland Avenue, SW., room 5624, Regional Office Building 3, Washington, DC 20202.

FOR FURTHER INFORMATION CONTACT: Mary P. Liggett (202) 708–5174.

SUPPLEMENTARY INFORMATION: Section 3517 of the Paperwork Reduction Act of 1980 (44 U.S.C. chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations.

The Acting Director, Office of Information Resources Management, publishes this notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following:

(1) Type of review requested, e.g., new, revision, extension, existing or reinstatement; (2) Title; (3) Frequency of collection; (4) The affected public; (5) Reporting burden; and/or (6) Recordkeeping burden; and (7) Abstract. OMB invites public comment at the address specified above. Copies of the requests are available from Mary P. Liggett at the address specified above.

Dated: August 13, 1991.

Mary P. Liggett,

Acting Director, Office of Information Resources Management.

Office of Postsecondary Education

Type of Review: Reinstatement.

Title: Performance Report for Title VI National Resource Centers Program.

Frequency: Annually.

Affected Public: Non-profit institutions.

Reporting Burden—Responses: 127; *Burden Hours:* 572.

Recordkeeping Burden—Recordkeepers: 0; *Burden Hours:* 0.

Abstract: Institutions that have participated in the National Resource Centers Program are to submit the report to the Department. The Department uses the information to assess the accomplishments of project goals and effective program management.

Office of Elementary and Secondary Education

Type of Review: Reinstatement.

Title: Applications and Continuation Applications for Grants under the Indian Fellowship Program.

Frequency: Annually.

Affected Public: Individuals or households.

Reporting Burden—Responses: 710; *Burden Hours:* 1,147.

Recordkeeping Burden—Recordkeepers: 0; *Burden Hours:* 0.

Abstract: This form will be used by State Educational Agencies to apply for funding under the Indian Fellowship Program. The Department uses the information to make grant awards.

Office of Postsecondary Education

Type of Review: New.

Title: Application for the FIPSE Special Focus Project: Education and Exchange between the United States and the European Community.

Frequency: One time.

Affected Public: State or local governments; non-profit institutions.

Reporting Burden—Responses: 80; *Burden Hours:* 1,200.

Recordkeeping Burden—Recordkeepers: 0; *Burden Hours:* 0.

Abstract: This form will be used by State Educational Agencies to apply for funding under the FIPSE Special Focus Project. The Department uses the information to make grant awards.

[FR Doc. 91–19679 Filed 8–16–91; 8:45 am]

BILLING CODE 7000–01–M

[CFDA No. 84.017]

International Research and Studies Program

Notice inviting applications for new awards for fiscal year (FY) 1992.

Purpose of Program: The International Research and Studies Program provides grants to public and private agencies, organizations, institutions, and individuals to conduct research and studies to improve and strengthen instruction in modern foreign languages, area studies, and related fields needed to provide full understanding of the places in which the modern foreign languages are commonly used.

Eligible Applicants: The following are eligible for new awards under this program: Public and private agencies, organizations, institutions, and individuals.

Deadline for Transmittal of Applications: November 1, 1991.

Applications Available: August 30, 1991.

Available Funds: The Administration has requested $2,254,000 for this program for FY 1992. However, the actual level of funding is contingent on final congressional action.

Estimated Range of Awards: $30,000 to 170,000.

Estimated Average Size of Awards: $72,100.

Estimated Number of Awards: 18.

Note: The Department is not bound by any estimates in this notice.

Project Period: 12 to 36 months.

Applicable Regulations: (a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 74, 75, 77, 80, 82, 85, and 86, and (b). The regulations for this program in 34 CFR parts 655 and 660.

Priorities: Pursuant to 34 CFR 75.105(c)(2), the Secretary gives a competitive preference to applications that meet one or more of the following competitive priorities. These priorities are taken from the list of priorities established in the regulations governing this program (34 CFR 660.10 and 660.34).

(a) Applications that focus on the development of instructional materials for the elementary and secondary levels of education for one or more of the following regions:

(1) Sub-Saharan Africa, Latin America, East Asia, Southeast Asia, South Asia, Europe, and the Middle East.

(b) Applications that focus on the development of postsecondary level instructional materials for one or more of the following regions:

(1) The Union of Soviet Socialist Republics (U.S.S.R.)

Under this competitive priority, the Secretary invites applications that study current developments in the U.S.S.R. in the context of economic, social, political, demographic, and geographic factors.

However, under 34 CFR 75.105(c)(1), an application that meets this invitational priority does not receive competitive or absolute preference over applications that do not meet this invitational priority.

(2) Europe

Under this competitive priority, the Secretary invites applications that study the economic, social, and political aspects of German unification or applications that study the economic, military, political, and social aspects of European integration.

However, under 34 CFR 75.105(c)(1), an application that meets one or more of these invitational priorities does not receive competitive or absolute preference over applications that do not meet these invitational priorities.

(3) The Middle East

Under this competitive priority, the Secretary invites applications that deal with the economic, social, and political impact of mass movements of populations within the Middle East and into the Middle East from other areas.

However, under 34 CFR 75.105(c)(1), an application that meets this invitational priority does not receive competitive or absolute preference over applications that do not meet this invitational priority.

(c) Applications that study language acquisition processes and foreign language proficiency testing.

Under this competitive priority, the Secretary invites applications that study the impact of competency based instruction on the development of language skills or the importance of proficiency testing in measuring those skills in terms of developing national standards.

However, under 34 CFR 75.105(c)(1), an application that meets one or more of these invitational priorities does not receive competitive or absolute preference over applications that do not meet these invitational priorities.

Under 34 CFR 75.105(c)(2)(i), an application that meets one or more of these competitive priorities in a particularly effective way receives from the Secretary up to 5 points in addition to any points the application earns under the selection criteria for the program.

For Applications or Information Contact: Jose L. Martinez, U.S. Department of Education, 400 Maryland Avenue SW., room 3053, ROB–3, Washington, DC 20202–5331. Telephone: (202) 708–9297. Deaf and hearing impaired individuals may call the Federal Dual Party Relay Service at 1–800–877–8339 (in the Washington, DC 202 area code, telephone 708–9300 between 8 a.m. and 7 p.m., Eastern time.)

Program Authority: 20 U.S.C. 1125.

Dated: August 12, 1991.

Michael J. Farrell,

Acting Assistant Secretary for Postsecondary Education.

[FR Doc. 91–19675 Filed 8–16–91; 8:45 am]

BILLING CODE 4000–01–M

[CFDA No.: 84.094C]

Patricia Roberts Harris—Public Service Education Fellowships Program

Notice inviting applications for new awards for fiscal year (FY) 1992.

Purpose of Program: Provides grants to institutions of higher education to support fellowships for graduate and professional studies to students who demonstrate financial need and who plan to pursue a career in public service.

Eligible Applicants: Institutions of higher education as defined in section 1201(a) of the Higher Education Act of 1965, as amended.

Deadline for Transmittal of Applications: October 11, 1991.

Deadline for Intergovernmental Review: December 13, 1991.

Applications Available: August 19, 1991.

Available Funds: The President's 1992 budget proposed a consolidation of graduate education fellowship programs, including the Patricia Roberts Harris—Public Service Education Fellowships, and requested no funding for this program. Awards are contingent upon the availability of appropriations for FY 1992. No funds have been appropriated at this time.

Estimated Range of Awards: $5,334–$112,000.

Estimated Average Size of Awards: $36,000.

Estimated Number of Awards: 40 (120 fellowships).

Note: The Department is not bound by any estimates in this notice.

Project Period: Up to 36 months, with 12-month budget periods.

Applicable Regulations: (a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 74, 75, 77, 79, 82, 85, and 86; and (b) The regulations for this program in 34 CFR part 649.

For Applications or Information Contact: Charles H. Miller, Senior Education Program Specialist, Division of Higher Education Incentive Programs, U.S. Department of Education, 400 Maryland Avenue SW., room 3022, ROB–3, Washington, DC 2020–5251. Telephone: (202) 708–8395. Deaf and hearing impaired individuals may call the Federal Dual Party Relay Service at 1–800–877–8339 (in the Washington, DC 202 area code, telephone 708–9300) between 8 a.m. and 7 p.m., Eastern time.

Program Authority: 20 U.S.C. 1134d–1134f.

Dated: August 12, 1991.

Michael J. Farrell,

Acting Assistant Secretary for Postsecondary Education.

[FR Doc. 91–19676 Filed 8–16–91; 8:45 am]

BILLING CODE 4000–01–M

ENVIRONMENTAL PROTECTION AGENCY (EPA)

[FRL–3985–4]

Gulf of Mexico Program Policy Review Board Meeting

AGENCY: U.S. Environmental Protection Agency (EPA)

ACTION: Notice of meeting of the Policy Review Board of the Gulf of Mexico Program.

SUMMARY: The Gulf of Mexico Program Policy Review Board will hold a meeting on August 28, 1991 at the Stouffer Riverview Plaza Hotel, Mobile, Alabama.

FOR FURTHER INFORMATION CONTACT: Mr. William Whitson, Gulf of Mexico Program Office, Building 1103, John C. Stennis Space Center, Stennis space Center, MS 39529–6000, at (601) 688–3726, FTS 494–3726.

SUPPLEMENTAL INFORMATION: A meeting of the policy Review Board (PRB) of the Gulf of Mexico Program will be held on August 28, 1991 at the Stouffer Riverview Plaza Hotel in Mobile, Alabama starting at 8;30 a.m. and ending at 2:30 p.m. Agenda items will include reports to the Committee on the Action Planning Process, 1992 Year of the Gulf planning, 1992 Gulf of Mexico Symposium, PRB membership, the comparative risk project, a briefing on the Sunbelt Caucus meeting, and a status report on the Gulf of Mexico Program's FY92 budget. The meeting is open to the public.

Joseph R. Franzmathes,

Assistant Regional Administrator for Policy and Management.

[FR Doc. 91–19756 Filed 8–16–91; 8:45 am]

BILLING CODE 6560–50–M

FEDERAL MARITIME COMMISSION

P&O Containers Limited, et al.; Agreement(s) Filed

The Federal Maritime Commission hereby gives notice of the filing of the following agreement(s) pursuant to section 5 of the Shipping Act of 1984.

Interested parties may inspect and obtain a copy fo each agreement at the Washington, DC Office of the Federal Maritime Commission, 1100 L Street, NW., room 10325. Interested parties may submit comments on each agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days after the date of the Federal Register in which this notice appears. The requirements for comments are found in § 572.603 of title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Agreement No.: 203–011256–002.

Title: PNS Agreement.

Parties: P&O Containers Limited Nedlloyd Lijnen, B.V. Sea-Land Service, Inc.

Synopsis: The proposed amendment would add Compagnie Generale Maritime as a party to the Agreement. The parties have requested a shortened review period.

Agreement No.: 203–011342.

Title: Mediterranean-Puerto Rico Discussion Agreement.

Parties: Mediterranean/Puerto Rico Conference P&O Container Limited.

Synopsis: The proposed Agreement would authorize the parties to meet, discuss and exchange information on rates, charges, service contracts and other matters in the trade from Mediterranean and Iberian Peninsula ports (excluding ports in the Azores Islands) and points in Continental Europe to ports and points in Puerto Rico. The parties have no obligation under this Agreement, other than voluntarily, to adhere to any consensus or agreement reached.

Dated: August 13, 1991.

By Order of the Federal Maritime Commission.

Joseph C. Polking,

Secretary.

[FR Doc. 91–19668 Filed 8–16–91; 8:45am]

BILLING CODE 6730–01–M

FEDERAL RESERVE SYSTEM

FirsTier Financial, Inc.; Notice of Application to Engage De Novo in Permissible Nonbanking Activities

The company listed in this notice has filed an application under § 225.23(a)(1) of the Board's Regulation Y (12 CFR 225.23(a)(1)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to commence or to engage *de novo*, either directly or through a subsidiary, in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than September 9, 1991.

A. Federal Reserve Bank of Kansas City (Thomas M. Hoenig, Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. FirsTier Financial, Inc., Omaha, Nebraska; to engage *de novo* through its subsidiary, FirsTier Insurance, Inc., Phoenix, Arizona, in underwriting credit related death, disability, or involuntary unemployment insurance issued in connection with loans made by FirsTier Financial and its credit-granting subsidiaries pursuant to § 225.25(b)(8)(i) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, August 13, 1991.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 91-19788 Filed 8-16-91; 8:45 am]

BILLING CODE 6210-01-F

Wiregrass Bancorporation, et al.; Formations of; Acquisitions by; and Mergers of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a

written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than September 9, 1991.

A. Federal Reserve Bank of Atlanta (Robert E. Heck, Vice President) 104 Marietta Street, NW., Atlanta, Georgia 30303:

1. Wiregrass Bancorporation, Ashford, Alabama; to acquire 100 percent of the voting shares of Barbour County Bank, Clayton, Alabama.

B. Federal Reserve Bank of Chicago (David S. Epstein, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. Lake Forest Bancorp, Inc., Lake Forest, Illinois; to become a bank holding company by acquiring 100 percent of the voting shares of Lake Forest Bank and Trust Company, Lake Forest, Illinois, a *de novo* bank.

C. Federal Reserve Bank of Minneapolis (James M. Lyon, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. Western Bancorporation, Inc., Duluth, Minnesota; to become a bank holding company by acquiring 80.86 percent of the voting shares of Western National Bank, Duluth, Minnesota.

D. Federal Reserve Bank of Dallas (W. Arthur Tribble, Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. Texas Regional Bancshares, Inc., McAllen, Texas; to acquire 100 percent of the voting shares of Mid Valley Bank, Weslaco, Texas.

Board of Governors of the Federal Reserve System, August 13, 1991.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 91-19789 Filed 8-16-91; 8:45 am]

BILLING CODE 6210-01-F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control

[Program Announcement Number 145]

National Institute for Occupational Safety and Health; Cooperative Agreement to Enhance the Training of Primary Care Physicians; Availability of Funds for Fiscal Year 1991

Introduction

The Centers for Disease Control (CDC), National Institute for Occupational Safety and Health (NIOSH), announces the availability of Fiscal Year 1991 funds for a cooperative agreement program to assist the nation's primary care medicine residencies in providing training to residents and medical students. This will be accomplished by linking the clinical faculty from primary care medicine residency programs (i.e., family practice, internal medicine, etc.) with experts in occupational and environmental medicine (OEM). The cooperative agreement program will significantly strengthen the occupational public health infrastructure by integrating resources for occupational safety and health research and public health prevention programs at the state and local levels.

The Public Health Service (PHS) is committed to achieving the health promotion and disease prevention objective of Healthy People 2000, a PHS-led national activity to reduce morbidity and mortality and improve the quality of life. This announcement is related to the priority area of occupational Safety and Health. (For ordering a copy of Healthy People 2000, see the section **Where to Obtain Additional Information.**)

Authority

This program is authorized under section 21(a) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 670) and section 301 of the Public Health Service Act (42 U.S.C. 241), as amended.

Eligible Applicants

Eligible applicants are public and private non-profit academic occupational and environmental medicine programs with a primary interest in preventive medicine and public health. These organizations need to have demonstrated a major emphasis on integrating occupational and environmental health into primary care residency (PCR) programs which are academic and community hospital-based. Competitive applications are invited from medical centers with occupational/environmental specialists and medical education specialists to conduct medical education programs.

Availability of Funds

Approximately $200,000 is available in fiscal year 1991 to fund up to two awards. It is expected that the average award will be approximately $100,000. The awards are expected to begin on or about September 30, 1991, and are to be made for a 12-month budget period within a project period of 3 to 5 years. Funding estimates may vary and are subject to change. Continuation awards within the project period will be made on the basis of satisfactory progress and the availability of funds.

Purpose

The purpose of this cooperative agreement is to enhance the education and practice of graduates of PCR programs in the field of occupational and environmental health.

Long-term objectives of the agreement are to:

1. Integrate concepts of occupational and environmental health into the existing curriculum of PCR programs.
2. Expand the number of clinical faculty in PCR programs who will be qualified to provide instruction at the level required for these programs.
3. Expand the number of PCR programs teaching occupational and environmental health.
4. Increase curriculum resources available to be used in the instructional process.
5. Establish a consultative network for referral of patient complaints resulting from occupational or environmental exposures.
6. Increase the number of practicing physicians who routinely elicit an occupational/environmental history.
7. Develop and implement a model educational program to disseminate information on HIV/AIDS infection in certain health care settings. Collaborate and coordinate with the National AIDS Education and Training Centers.
8. Conduct a conference in conjunction with a national academy of primary care practitioners to report the results of the project.

Program Requirements

In conducting activities to achieve the purpose of this program, the recipient shall be responsible for conducting activities under A. below, and CDC will be responsible for conducting activities under B. below.

A. Recipient Activities

1. Develop, implement, and maintain a program of faculty development workshops to increase the competence of clinical faculty in PCR programs, and to integrate occupational and environmental health into the existing curriculum.
2. Develop a national networking system to promote faculty development workshops for clinical faculty of PCR programs.
3. Select participants and conduct a series of faculty development workshops for at least 200 primary care faculty in both academic and community-based programs over a 30-month period.
4. Develop and disseminate a curriculum resource package of information on occupational and

environmental injury and illness for use by primary care clinical teaching faculty.

5. Develop and implement an evaluation system to measure the impact and continuity of the faculty development training activities.

6. Develop and implement a national consultative network of PCR programs and OEM experts.

7. Develop, pilot test, and evaluate a model educational program on HIV/AIDS infection in certain health care settings.

8. Conduct a national conference to disseminate the results of the faculty development activity.

B. CDC/NIOSH Activities

1. Provide technical assistance in all phases of the development, implementation, and evaluation of all activities required as part of this cooperative agreement, including, but not limited to, providing guidance on selection of residency programs, reporting guidelines, development of resource materials, etc.

2. Collaborate with the recipient in building consensus among PCR programs regarding essential skills and knowledge in occupational/environmental health which all graduates should posses.

3. Collaborate with the recipient in developing new and unique methods to integrate occupational and environmental health into existing curriculum.

4. Collaborate with the recipient in developing new educational activities and instructional methods to provide necessary faculty skills and knowledge.

5. Provide technical assistance on the design, development, and testing of educational packages.

6. Participate in workshops and conferences to exchange current information, opinions, and findings in the areas of occupational and environmental health.

7. Provide information on experts in the field to serve as members of regional speakers bureaus.

8. Provide technical assistance in the evaluation of results of outreach activities.

Evaluation Criteria

The applications will be reviewed based on the evidence submitted which specifically describes the applicant's ability to meet the following criteria:

1. The applicant's understanding of the objectives of the proposed activities and the purpose of this cooperative agreement. (10%)

2. Documentation of the ability to provide the staff, knowledge, and other resources required to perform the applicant's responsibilities in this project, and a description of the approach to be used in carrying out those responsibilities. (8%)

3. A clear description of the steps to be taken in planning and implementing this project, and the respective responsibilities of the applicant, CDC/NIOSH, and any other entities for carrying out those steps. (15%)

4. Appropriateness of the proposed schedule for initiating and accomplishing the activities of the cooperative agreement (10%)

5. A clear description of the evaluation techniques used to assess levels of accomplishment of the proposed project. (10%)

6. Ability to provide names, qualifications, and time allocations of the professional staff to be assigned to this project; the support staff available for performance of this project, and the facilities, space, and equipment available for performing this project. (7%)

7. Ability to specify a proposed plan for administering this project; and the name, qualifications, and time allocations of the individual whom the applicant proposes to make the principal investigator, and his/her experience in coordinating projects between programs in different medical specialties. (22%)

8. Description of a plan of collaboration between the recipient, OEM specialists, and PCR programs; an the approach that will be used to develop a regional or national network of programs. (18%)

9. Provision of a detailed budget which indicates:

(1) Anticipated costs for personnel, travel, communications, postage, supplies, and extramural support to collaborating programs, and (2) the sources of funds to meet those needs. The budget will be reviewed to determine if it is reasonable, clearly justified, and consistent with the intended use and purpose of cooperative agreement funds. (Not Scored)

Other Requirements

HIV Program Review Panel

Recipients must comply with the requirements to establish an HIV Program Review Panel as defined in the document entitled, "CONTENT OF AIDS-RELATED WRITTEN MATERIALS, PICTORIALS, AUDIOVISUALS, QUESTIONNAIRES, SURVEY INSTRUMENTS, AND EDUCATIONAL SESSIONS (January 1991)" (a copy of which is included in the application kit).

Exeucitve Order 12372 Review

Applications are not subject to review by Executive Order 12372.

Catalog of Federal Domestic Assistance Number (CFDA)

The Catalog of Federal Domestic Assistance Number (CFDA) for this program is 93.283.

Application Submission and Deadline

The original and two copies of the PHS form 5161–1 (Revised 3/89) must be submitted to Mr. Henry Cassell, III, Grants Management Office, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control, Mailstop E–14, 255 East Paces Ferry Road, NE., room 300, Atlanta, Georgia 30305, on or before September 19, 1991.

1. Deadline: Applications shall be considered as meeting the deadline if they are either:

a. Received on or before the deadline date, or

b. Sent on or before the deadline date and received in time for submission to the independent review group. (Applicants must request a legibly dated U.S. Postal Service postmark or obtain a legibly dated receipt from a commercial carrier or the U.S. Postal Service. Private metered postmarks shall not be acceptable as proof of timely mailing.)

2. Late Applications: Applications which do not meet the criteria in 1.a. or 1.b. above are considered late applications. Late applications will not be considered in the current competition and will be returned to the applicant.

Where to Obtain Additional Information

A complete program description, information on application procedures, an application package, and business management technical assistance, may be obtained from Ms. Lisa Tamaroff, Grants Management Specialist, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control, Mailstop E–14, 255 East Paces Ferry Road, NE., room 300, Atlanta, Georgia 30305, or by calling (404) 842–6630 or (FTS: 236–6630).

Programmatic technical assistance may be obtained from Jack Berberich, Ph.D., Chief, Curriculum Development Branch, DTMD, NIOSH, MS C–12, 4676 Columbia Parkway, room 138, Cincinnati, Ohio 45226, or by calling (513) 533–8231 or (FTS: 684–8231).

Announcement No. 145, "Training of Primary Care Physicians," must be referenced in all requests for information pertaining to these projects.

Potential applicants may obtain a copy of Healthy People 2000 (Full

Report, Stock No. 017–001–00474–0) or Healthy People 2000 (Summary Report, Stock No. 017–001–00473–1) through the Superintendent of Documents, Government Printing Office, Washington, DC 20402–9325 (Telephone (202) 783–3238).

Dated: August 13, 1991.

Larry W. Sparks,

Acting Director, National Institute for Occupational Safety and Health.

[FR Doc. 91–19725 Filed 8–16–91; 8:45 am]

BILLING CODE 4160–19–M

Advisory Council for the Elimination of Tuberculosis: Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), the Centers for Disease Control (CDC) announces the following council meeting.

Name: Advisory Council for the Elimination of Tuberculosis (ACET).

Time and Date: 8 a.m.–5 p.m., September 4–5, 1991.

Place: Courtyard by Marriott, Executive Park, room A, 1236 Executive park Drive, NE, Atlanta, Georgia 30329.

Status: Open to the public, limited only by the space available.

Purpose: This council advises and makes recommendations to the Secretary, Department of Health and Human Services, the Assistant Secretary for Health, and the Director, CDC, regarding the elimination of tuberculosis. Specifically, the council makes recommendations regarding policies, strategies, objectives, and priorities; addresses the development and application of new technologies; and reviews the extent to which progress has been made toward eliminating tuberculosis.

Matters to be Discussed: Shortages of antituberculosis drugs; future tuberculosis research and new drug development; drug-resistant tuberculosis; prevention and control of tuberculosis in high-incidence areas, especially among minority populations; recommendations for tuberculosis prevention and control in migrant farmworkers; recommendations for tuberculosis prevention and control in the homeless; and the need for a national tuberculosis hospital. Agenda items are subject to change as priorities dictate.

Contact Person for More Information: Dixie E. Snider, Jr., M.D., Director, Division of Tuberculosis Elimination, and Executive Secretary, ACET, National Center for Prevention Services, CDC, 1600 Clifton Road, NE., Mailstop E–10, Atlanta, Georgia 30333, telephone 404/639–2501 or FTS 236–2501.

Dated: August 12, 1991.

Elvin Hilyer,

Associate Director for Policy Coordination Centers for Disease Control.

[FR Doc. 91–19724 Filed 8–16–91; 8:45 am]

BILLING CODE 4160–18–M

Food and Drug Administration

Advisory Committee; Notice of Meeting

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: This notice announces a forthcoming meeting of a public advisory committee of the Food and Drug Administration (FDA). This notice also summarizes the procedures for the meeting and methods by which interested persons may participate in open public hearings before FDA's advisory committees.

MEETING: The following advisory committee meeting is announced:

Vaccines and Related Biological Products Advisory Committee

Date, time, and place. September 4 and 5, 1991, 8:30 a.m., Conference rms. D and E, Parklawn Bldg., 5600 Fishers Lane, Rockville, MD.

Type of meeting and contact person. Open public hearing, September 4, 1991, 8:30 a.m. to 9:30 a.m., unless public participation does not last that long; open committee discussion, 9:30 a.m. to 12 m.; closed committee deliberations, 1 p.m. to 5 p.m.; open committee discussion, September 5, 1991, 8:30 a.m. to 12 m.; closed committee deliberations, 1 p.m. to 3 p.m.; open committee discussion, 3 p.m. to 5 p.m.; Ann Sutton, Center for Biologics Evaluation and Research (HFB–600), Food and Drug Administration, 8800 Rockville Pike, Bethesda, MD 20892, 301–496–9393.

General function of the committee. The committee reviews and evaluates data on the safety and effectiveness of vaccines intended for use in the diagnosis, prevention or treatment of human diseases.

Agenda—Open public hearing. Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Those desiring to make formal presentations should notify the contact person before August 21, 1991, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time required to make their comments.

Open committee discussion. On September 4, 1991, the committee will discuss pending license applications for monoclonal antibodies to endotoxin in the treatment of gram negative infection. On September 5, 1991, the committee will discuss the use of an antibody surrogate for efficacy of vaccines against Haemophilus influenzae type B disease.

Closed committee deliberations. The committee will review trade secret and/or confidential commercial information relevant to investigational new drug applications and pending product license applications. These portions of the meeting will be closed to permit discussion of this information (5 U.S.C. 552b(c)(4)).

Each public advisory committee meeting listed above may have as many as four separable portions: (1) An open public hearing, (2) an open committee discussion, (3) a closed presentation of data, and (4) a closed committee deliberation. Every advisory committee meeting shall have an open public hearing portion. Whether or not it also includes any of the other three portions will depend upon the specific meeting involved. The dates and times reserved for the separate portions of each committee meeting are listed above.

The open public hearing portion of each meeting shall be at least 1 hour long unless public participation does not last that long. It is emphasized, however, that the 1 hour time limit for an open public hearing represents a minimum rather than a maximum time for public participation, and an open public hearing may last for whatever longer period the committee chairperson determines will facilitate the committee's work.

Public hearings are subject to FDA's guideline (Subpart C of 21 CFR part 10) concerning the policy and procedures for electronic media coverage of FDA's public administrative proceedings, including hearings before public advisory committees under 21 CFR part 14. Under 21 CFR 10.205, representatives of the electronic media may be permitted, subject to certain limitations, to videotape, film, or otherwise record FDA's public administrative proceedings, including presentations by participants.

Meeting of advisory committees shall be conducted, insofar as is practical, in accordance with the agenda published in this **Federal Register** notice. Changes in the agenda will be announced at the beginning of the open portion of a meeting.

Any interested person who wishes to be assured of the right to make an oral presentation at the open public hearing portion of a meeting shall inform the contact person listed above, either orally or in writing, prior to the meeting. Any person attending the hearing who does not in advance of the meeting request an opportunity to speak will be

allowed to make an oral presentation at the hearing's conclusion, if time permits, at the chairperson's discretion.

The agenda, the questions to be addressed by the committee, and a current list of committee members will be available at the meeting location on the day of the meeting.

Transcripts of the open portion of the meeting will be available from the Freedom of Information Office (HFI–35), Food and Drug Administration, rm. 12A–16, 5600 Fishers Lane, Rockville, MD 20857, approximately 15 working days after the meeting, at a cost of 10 cents per page. The transcript may be viewed at the Dockets Management Branch (HFI–35), Food and Drug Administration, rm. 1–23, 12420 Parkland Dr., Rockville, MD 20857, approximately 15 working days after the meeting, between the hours of 9 a.m. and 4 p.m., Monday through Friday. Summary minutes of the open portion of the meeting will be available from the Freedom of Information Office (address above) beginning approximately 90 days after the meeting.

The Commissioner, with the concurrence of the Chief Counsel, has determined for the reasons stated that those portions of the advisory committee meetings so designated in this notice shall be closed. The Federal Advisory Committee Act (FACA) (5 U.S.C. App. 2, 10(d)), permits such closed advisory committee meetings in certain circumstances. Those portions of a meeting designated as closed, however, shall be closed for the shortest possible time, consistent with the intent of the cited statutes.

The FACA, as amended, provides that a portion of a meeting may be closed where the matter for discussion involves a trade secret; commercial or financial information that is privileged or confidential; information of a personal nature, disclosure of which would be a clearly unwarranted invasion of personal privacy; investigatory files complied for law enforcement purposes; information the premature disclosure of which would be likely to significantly frustrate implementation of a proposed agency action; and information in certain other instances not generally relevant to FDA matters.

Example of portions of FDA advisory committee meetings that ordinarily may be closed, where necessary and in accordance with FACA criteria, include the review, discussion, and evaluation of drafts of regulations of guidelines or similar preexisting internal agency documents, but only if their premature disclosure is likely to significantly frustrate implementation of proposed agency action; review of trade secrets and confidential commercial or financial information submitted to the agency; consideration of matters involving investigatory files compiled for law enforcement purposes; and review of matters, such as personnel records or individual patient records, where disclosure would constitute a clearly unwarranted invasion of personal privacy.

Example of portions of FDA advisory committee meetings that ordinarily may shall not be closed include the review, discussion, and evaluation of general preclinical and clinical test protocols and procedures for a class of drugs or devices; consideration of labeling requirements for a class of marketed drugs or devices; review of data and information on specific investigational or marketed drugs and devices that have previously been made public; presentation of any other data or information that is not exempt from public disclosure pursuant to the FACA, as amended; and, notably deliberative session to formulate advice and recommendations to the agency on matters that do not independently justify closing.

This notice is issued under section 10(a) (1) and (2) of the Federal Advisory Committee Act (5 U.S.C. App. 2), and FDA's regulations (21 CFR part 14) on advisory committees.

Dated: August 12, 1991.

[FR Doc. 91–19719 Filed 8–16–91; 8:45 am]

BILLING CODE 4160–01–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[AK–964–4230–15; F–14908–A]

Alaska Native Claims Selection; Publication

In accordance with Departmental regulation 43 CFR 2650.7(d), notice is hereby given that a decision to issue conveyance under the provisions of section 14(a) of the Alaska Native Claims Settlement Act of December 18, 1971, 43 U.S.C. 1601, 1613(a), will be issued to Sitnasuak Native Corporation for approximately 5.34 acres. The lands involved are in the vicinity of Nome, Alaska, within T. 11 S., R. 34 W., Kateel River Meridian, Alaska.

A notice of the decision will be published once a week, for four (4) consecutive weeks, in the Nome Nugget. Copies of the decision may be obtained by contacting the Alaska State Office of the Bureau of Land Management, 222 West Seventh Avenue, #13, Anchorage, Alaska 99513–7599 ((907) 271–5960).

Any party claiming a property interest which is adversely affected by the decision, an agency of the Federal government or regional corporation, shall have until September 18, 1991 to file an appeal. However, parties receiving service by certified mail shall have 30 days from the date of receipt to file an appeal. Appeals must be filed in the Bureau of Land Management at the address identified above, where the requirements for filing an appeal may be obtained. Parties who do not file an appeal in accordance with the requirements of 43 CFR part 4, subpart E, shall be deemed to have waived their rights.

Carolyn A. Bailey,

Lead Land Law Examiner, Branch of Doyon/Northwest Adjudication.

[FR Doc. 91–19690 Filed 8–16–91; 8:45 am]

BILLING CODE 4310–JA–M

[NV–930–91–4212–11; N–20284]

Termination of Recreation and Public Purpose Classification; NV

August 7, 1991.

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: This action terminates Recreation and Public Purpose (R&PP) Classification N–20284 in its entirety. The land will be opened to the public land laws generally, including the mining and mineral leasing laws.

EFFECTIVE DATE: August 19, 1991. The land will be open to entry effective 10 a.m. on September 18, 1991.

FOR FURTHER INFORMATION CONTACT: Vienna Wolder, Nevada State Office, BLM, 850 Harvard Way, P.O. Box 12000, Reno, Nevada 89520, 702–785–6526.

SUPPLEMENTARY INFORMATION: Pursuant to section 7 of the Taylor Grazing Act (48 Stat. 1272) and the authority delegated by appendix I of Bureau of Land Management Manual 1203, dated April 14, 1987, Recreation and Public Purpose Classification N–20284 is hereby terminated in its entirety:

Mount Diablo Meridian, Nevada

T. 20 N., R. 24 E.,
Sec. 24, the south 50 feet of the E½SE¼S W¼ and the south 50 feet of the E½W½SE¼SW¼.

The area described contains 1.136 acres in Lyon County.

The classification made pursuant to the Act of June 14, 1926, as amended, segregated the public land from all other forms of appropriation under the public land laws, including location under the

United States mining laws and the mineral leasing laws. The land was leased to Lyon County for a water pipeline as part of the recreation and public purpose classification/lease for the Fernley High School. The title to the land for the school has now been transferred to Lyon County. Lyon County relinquished the lease on the above described 50 foot strip and the pipeline is now authorized under a right-of-way grant. The recreation and public purpose classification for the 50 foot strip is no longer required or considered appropriate. At 10 a.m. on September 18, 1991, the land will be open to the operation of the public land laws and the mineral leasing laws, subject to valid existing rights, existing classifications and withdrawals, and requirements of applicable law. All valid applications received prior to or at 10 a.m. on September 18, 1991, will be considered as simultaneously filed. All other applications received will be considered in order of filing.

At 10 a.m. on September 18, 1991, the land will also be open to the operation of the mining laws. Appropriation of lands under the general mining laws prior to the date and time of restoration is unauthorized. Any such attempted appropriation, including attempted adverse possession under 30 U.S.C. 38, shall vest no rights against the United States. Acts required to establish a location and to initiate a right of possession are governed by State law where not in conflict with Federal law. The Bureau of Land Management will not intervene in disputes between rival locators over possessory rights since Congress has provided for such determinations in local courts.

Marla B. Bohl,

Acting Deputy State Director, Operations.

[FR Doc. 91–19694 Filed 8–16–91; 8:45 am]

BILLING CODE 4310–HC–M

[CO-932-4214-10; COC-064413]

Proposed Withdrawal; Opportunity for Public Meeting; Colorado

August 9, 1991.

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The U.S. Department of Agriculture, Forest Service, proposes to withdraw an additional 4,975.43 acres of National Forest System lands adjacent to an existing withdrawal near Winter Park, Colorado, to protect recreational facilities and resource values at the Winter Park Ski Area. This proposed action would modify the existing withdrawal and withdraw the entire 9,718.43 acres of National Forest System land for twenty years. This notice closes the 4,975.43 acres to location and entry under the mining laws for up to two years. The land remains open to mineral leasing and to Forest Service management.

DATES: Comments on this proposed withdrawal must be received on or before November 18, 1991.

ADDRESSES: Comments should be sent to the Colorado State Office, Bureau of Land Management, 2850 Youngfield Street, Lakewood, Colorado 80215–7076.

FOR FURTHER INFORMATION CONTACT: Doris E. Chelius, (303) 239–3706.

SUPPLEMENTARY INFORMATION: On July 22, 1991, the Department of Agriculture, Forest service, filed application to withdraw the following described National Forest System lands from location and entry under the United States mining laws, subject to valid existing rights:

Sixth Principal Meridian

Arapaho National Forest

Winter Park Ski Area Addition

Beginning at Corner No. 1, the South ¼ of section 33, T. 1 S., R. 75 W., identical with Corner No. 1 of the area withdrawn for the Winter Park Ski area as described in Public Land Order No. 3136;
From Corner No. 1, by Metes and Bounds:
Westerly along the south boundary of T. 1 S., R. 75 W., 135.57 chains to Corner No. 2;
South 301.90 chains to Corner No. 3;
East 20 chains to Corner No. 4;
South 40 chains to Corner No. 5;
East 20 chains to Corner No. 6;
South 20 chains to Corner No. 7;
East 20 chains to Corner No. 8;
South 40 chains to Corner No. 9;
East 60 chains to Corner No. 10;
North 20 chains to Corner No. 11;
East 20 chains to Corner No. 12;
North 20 chains to Corner No. 13;
East 40 chains to Corner No. 14;
North 20 chains to Corner No. 15;
East 60 chains to Corner No. 16;
North approximately 25.86 chains to Corner No. 17 at the intersection with the southerly boundary of the area withdrawn for the Winter Park Ski area as described in Public Land Order No. 3136;
South 80° West 109.37 chains to Corner No. 18, identical with Corner No. 5 of the Winter Park Ski Area, Public Land Order No. 3136;
North 10° West 160 chains to Corner No. 19, identical with Corner No. 4 of the Winter Park Ski Area, Public Land Order No. 3136;
North 64 chains to Corner No. 20, identical with Corner No. 3 of the Winter Park Ski Area, Public Land Order No. 3136;
North 70° East 68 chains to Corner No. 21, identical with Corner No. 2 of the Winter Park Ski Area, Public Land Order No. 3136;
North 20° West 96 chains to Corner No. 1, the place of beginning.

The area described contains approximately 4,975.43 acres of National Forest System land in Grand County.

The purpose of this withdrawal is to protect recreational facilities and high resource values at the Winter Park Ski Area. If approved, the final order will incorporate the existing withdrawal with these requested lands and withdraw a total of 9,718.43 acres of National Forest System land for 20 years. For a period of 90 days from the date of publication of this notice, persons who desire to submit comments in connection with this action should submit their comments or requests in writing to the Colorado State Director at the address shown above.

A public meeting will be scheduled and held on this proposed action as required by regulation and will be conducted in accordance with Bureau of Land Management Manual, section 2351.16B. A notice of the date, time, and place of the meeting will be published in the **Federal Register** at least 30 days prior to the meeting. This application will be processed in accordance with the regulations set forth in 43 CFR part 2310.

For a period of 2 years from the date of publication of this notice in the **Federal Register**, the land will be segregated from the mining laws as specified above unless the application is denied or cancelled or the withdrawal is approved prior to that date. During this period the Forest Service will continue to allow those discretionary uses that do not conflict with use by the ski area.

John H. Lancelot,

Acting Chief, Branch of Realty Programs.

[FR Doc. 91–19692 Filed 8–16–91; 8:45 am]

BILLING CODE 4310–JB–M

Bureau of Mines

Information Collection Submitted to the Office of Management and Budget for Review Under the Paperwork Reduction Act

A request extending the collection of information listed below has been submitted to the Office of Management and Budget for approval under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35). Copies of the proposed collection of information and related forms and explanatory material may be obtained by contacting the Bureau's clearance officer at the phone number listed below. Comments and

suggestions on the requirement should be made within 30 days directly to the Bureau clearance officer and to the Office of Management and Budget, Paperwork Reduction Project (1032–0081), Washington, DC 20503, telephone 202–395–7340.

Title: Mine Information Supplement.

OMB Approval Number: 1032–0081.

Abstract: Respondents supply the Bureau of Mines with domestic production and consumption data on nonfuel mineral commodities. This information is published in Bureau of Mines publications including Volumes I, II, and III of the Minerals Yearbook and Mineral Commodity Summaries for use by private organizations and other Government agencies.

Bureau Form Number: 6–1017–A.

Frequency: Annual.

Description of Respondents: Nonfuel Mineral Producers and Exploration Operations.

Annual Responses: 2,350.

Annual Burden Hours: 1,175.

Bureau Clearance Officer: Alice J. Wissman (202) 634–1125.

Dated: August 5, 1991.

T.S. Ary,

Director, Bureau of Mines.

[FR Doc. 91–19739 Filed 8–16–91; 8:45 am]

BILLING CODE 4310–53–M

National Park Service

Chesapeake and Ohio Canal National Historical Park Commission; Meeting

Notice is hereby given in accordance with Federal Advisory Committee Act that a meeting will be held Saturday, September 14, 1991, at the Hancock Maintenance Office, Hancock, Maryland.

The Commission was established by Public Law 91–664 to meet and consult with the Secretary of the Interior on general policies and specific matters related to the administration and development of the Chesapeake and Ohio Canal National Historical Park.

The members of the Commission are as follows:

Mrs. Sheila Rabb Weidenfeld, Chairman, Washington, DC.
Mrs. Dorothy Tappe Grotos, Delaplane, Virginia
Mr. Samuel S.D. Marsh, Bethesda, Maryland
Mr. James F. Scarpelli, Sr., Cumberland, Maryland
Ms. Elise B. Heinz, Arlington, Virginia
Captain Thomas F. Hahn, Shepherdstown, West Virginia
Mr. Rockwood H. Foster, Washington, DC.
Mr. Barry A. Passett, Washington, DC.
Mrs. Jo Reynolds, Potomac, Maryland
Ms. Nancy C. Long, Glen Echo, Maryland
Mrs. Minny Pohlmann, Dickerson, Maryland
Dr. James H. Gilford, Frederick, Maryland
Mr. Edward K. Miller, Hagerstown, Maryland
Mrs. Sue Ann Sullivan, Williamsport, Maryland
Mr. Terry W. Hepburn, Hancock, Maryland
Mr. Robert L. Ebert, Cumberland, Maryland

Matters to be discussed at this meeting include:

1. Old and new business.
2. Superintendent's report.
3. Committee reports.
4. Public comments.

The meeting will be open to the public. Any member of the public may file with the Commission a written statement concerning the matters to be discussed. Persons wishing further information concerning this meeting, or who wish to submit written statements, may contact Thomas O. Hobbs, Superintendent, C&O Canal National Historical Park, P.O. Box 4, Sharpsburg, Maryland 21782.

Minutes of the meeting will be available for public inspection six (6) weeks after the meeting at Park Headquarters, Sharpsburg, Maryland.

Dated: August 12, 1991.

Robert Stanton,

Regional Director, National Capital Region.

[FR Doc. 91–19686 Filed 8–16–91; 8:45 am]

BILLING CODE 4310–70–M

Delaware and Lehigh Navigation Canal National Heritage Corridor; Meeting

AGENCY: National Park Service; Delaware and Lehigh Navigation Canal National Heritage Corridor Commission; Interior.

ACTION: Notice of meeting.

SUMMARY: This notice sets forth the date of the forthcoming meeting of the Delaware and Lehigh Navigation Canal National Heritage Corridor Commission.

DATES: September 20, 1991 at 2 p.m.

INCLEMENT WEATHER RESCHEDULE DATE: None.

ADDRESSES: Easton City Hall, 650 Ferry Street, First Floor Conference Room, Easton, PA.

FOR FURTHER INFORMATION CONTACT: Millie Alvarez, Delaware and Lehigh Navigation Canal National Heritage Corridor Commission, 10 East Church Street, room P–208, Bethlehem, PA 18018, (215) 861–9345.

SUPPLEMENTARY INFORMATION: The Commission was established by Public Law 100–692 to assist the Commonwealth and its political subdivisions in planning and implementing an integrated strategy for protecting and promoting cultural, historical and natural resources. The Commission will report to the Secretary of the Interior and to Congress. The agenda for the meeting will focus on the planning process.

The meeting will be open to the public. Any member of the public may file a written statement concerning agenda items. The statement should be addressed to National Park Service, Mid-Atlantic Regional Office, Division of Park and Resource Planning, 260 Custom House, 200 Chestnut Street, Philadelphia, PA, 19106, attention: Deirdre Gibson.

Minutes of the meeting will be available for inspection four weeks after the meeting, at the above-named address.

James W. Coleman, Jr.,

Regional Director, Mid-Atlantic Region.

[FR Doc. 91–19689 Filed 8–16–91; 8:45 am]

BILLING CODE 4310–70–M

DEPARTMENT OF JUSTICE

Information Collections Under Review

August 13, 1991.

The Office of Management and Budget (OMB) has been sent the following collection(s) of information proposals for review under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35) and the Paperwork Reduction Reauthorization Act since the last list was published.

Entries are grouped into submission categories, with each entry containing the following information:

(1) The title of the form/collection;
(2) The agency form number, if any, and the applicable component of the Department sponsoring the collection;
(3) How often the form must be filled out or the information is collected;
(4) Who will be asked or required to respond, as well as a brief abstract;
(5) An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond;
(6) An estimate of the total public burden (in hours) associated with the collection; and,
(7) An indication as to whether section 3504(h) of Public Law 96–511 applies

Comments and/or suggestions regarding the item(s) contained in this

notice, especially regarding the estimated public burden and associated response time, should be directed to the OMB reviewer, Mr. Edward H. Clarke, on (202) 395–7340 and to the Department of Justice's Clearance Officer, Mr. Lewis B. Arnold, on (202) 514–4305.

If you anticipate commenting on a form/collection, but find that time to prepare such comments will prevent you from prompt submission, you should notify the OMB reviewer and the DOJ Clearance Officer of your intent as soon as possible.

Written comments regarding the burden estimate or any other aspect of the collection may be submitted to Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503, and to Mr. Lewis B. Arnold, DOJ Clearance Officer, SPS/JMD/5031 CAB, Department of Justice, Washington, DC 20530.

This notice contains entries for which an expedited review has been requested from the Office of Management and Budget. In an effort to fully inform the reporting public, these entries are printed in full, including instructions, at the end of this notice.

Revision of Currently Approved Collections

An Expedited Review Has Been Requested For This Entry

(1) Application for voluntary departure under the Family Unity Program.

(2) I–817, Immigration and Naturalization Service.

(3) On occasion.

(4) Individuals or households. The Immigration Act of 1990 provides for the granting of a stay of deportation and the granting of employment authorization for an eligible immigrant who is the spouse or unmarried child of a legalized alien adjusted to temporary or permanent residence under sections 210 and 245A of the Immigration and Nationality Act of section 202 of the Immigration Reform and Control Act of 1986.

(5) 250,000 respondents at 2.583 hours per total response.

(6) 645,750 hours.

(7) Not applicable under 3504(h).

An Expedited Review Has Been Requested For This Entry

(1) Petition for Amerasians, widow or special immigrant

(2) I–360, Immigration and Naturalization Service.

(3) On occasion.

(4) Individuals or households. This form revises the current Amerasian petition in use.

(5) 1000 respondents at 1.5 hours per response.

(6) 1500 annual burden hours.

(7) Not applicable under 3504(h)

Impact on Fee

The new form adds new petition processes established by the Immigration Act of 1990 (IMMACT). Based on an analysis of the projected processing costs associated with this complex adjudication, and comparison with the fees for other adjudicative processes, the Service proposes to institute a fee of $75 for filing for any benefit except for Amerasian classification, for which there would continue to be no fee. This is the same fee as for the immigrant relative petition. As the service gains experience in processing this new application, the fee will be adjusted based on actual costs.

Public comment on these items is encouraged. All written comments concerning the Forms I–817 and I–360 should be sent to the Director, Policy Directives and Instructions Branch, Immigration and Naturalization Service, U.S. Department of Justice, room 5304, 425 I Street NW., Washington DC 20536, Attention: Form I–817 or Form I–360. Written comments must be submitted within 15 days after date of publication in the **Federal Register.**

Lewis Arnold,

Department Clearance Officer, Department of Justice.

DRAFT

U.S. Department of Justice

Immigration and Naturalization Service

OMB No. 1115–0166

Application in Voluntary Departure under the Family Unity Program

Purpose

This form is used to apply for Voluntary Departure under the Family Unity Program based on being the spouse or child of a "legalized alien." A legalized alien is a temporary or permanent resident adjusted under section 210, or 245A of the Immigration and Nationality Act, or a permanent resident adjusted under Section 202 of the Immigration Reform and Control Act of 1986 (Cuban/Haitian Adjustment).

Who May File

Each person must file a separate application. You may file this application if you entered the United States before May 5, 1988 and have resided in the United States since that date, and since May 5, 1988 you have been, and remain, either:

- the spouse of a legalized alien or;
- the unmarried child under the age of 21 of a legalized alien, except that you are ineligible if you are an adopted child and the adoption took place after you became 16 years old, or you were not in the legal custody and living with the adoptive parent(s) for at least two years on May 5, 1988. You are also ineligible if you are a stepchild and the marriage that created this relationship took place after you became 18 years old.

General Filing Instructions

Please answer all questions by typing or clearly printing in black ink. Indicate that an item is not applicable with "N/A." If an answer to a question is "none," write "none." If you need extra space to answer any item, attach a sheet of paper with you name and your A#, if any, and indicate the number of the item to which the answer refers. You must file your application with the required Initial Evidence. Your application must be properly signed and filed with the correct fee.

Initial Evidence

Evidence you entered the United States before May 5, 1988. File you application with copies of evidence demonstrating the date of your entry, such as:

- your passport
- your Form I–94, Nonimmigrant Arrival-Departure Record;
- Copies of residency documents, specified below.

Evidence you have resided in the U.S. since May 5, 1988. File your application with copies of at least 3 of the following:

- Employment records, such as pay stubs, W–2 Forms, certification of the filing of Federal income tax returns, state verification of the filing of state income tax returns, letters from employer(s) or, if you are self employed, letters from banks and other firms with whom you have done business. In all of the above, your name and the name of the employer or other interested organization must appear on the form or letter, as well as relevant dates. Letters from employers must be in affidavit form, and must be signed and attested to by the employer under penalty of perjury. Such letters must include:
  - your address(es) at the time of employment;
  - the exact period(s) of employment, including the dates of any layoffs and;
  - your duties with the company if these records are unavailable, the employer's affidavit stating that your employment records are unavailable and why they are unavailable may be submitted. This affidavit shall be signed and attested to by the employer under penalty of perjury.
- Rent receipts, utility bills (gas, electric, phone, etc.), receipts or letters from companies showing the dates during which you received service.
- School records (letters, report cards, etc.) from the schools you or your children have attended in the United States, which show the name of the school and periods of school attendance.
- Hospital or medical records showing treatment of hospitalization of you or your children, which show the name of the medical facility or physician and the date(s) of the treatment of hospitalization.
- Attestations by churches, unions, or other organizations to you residence by letter which:
  - identify you by name;

• are signed by an official (whose title is shown);

• show inclusive dates of membership;

• state the address where you resided during membership period;

• include the seal of the organization impressed on the letter or the letterhead of the organization, if the organization has letterhead stationery.

• establish how the author knows you; and

• establish the origin of the information being attested to.

• Any other relevant documents such as money order receipts for money sent in or out of the country; passport entries; birth certificates of children born in the United States; bank books with dated transactions; correspondence between you and another person or organization; Social Security care; Selective Service card, automobile license receipts, title, vehicle registration; deeds, mortgages, contracts to which you have been a party; tax receipts; insurance policies, receipts, or letters.

Evidence you are the spouse or unmarried child of a legalized alien. You must file your application with a copy of the document issued by the Service to your spouse or parent granting legalized status (examples are: Form I–688, Temporary Resident Card, Form I–94 reflecting temporary proof of lawful permanent residence, or Form I–551, Alien Registration Receipt Card). You must also file your application with the following:

• If you are the legalized alien's spouse, file your application with:

• a copy of your marriage certificate; and

• if either you or your spouse were married before, file copies of documents to show that any prior marriage was legally ended.

• If you are the legalized alien's unmarried child and are under 21 years of age, file your application with a copy of your birth certificate showing your parent(s) names and;

• If you are the legitimate child of your legalized alien father or stepparent, file a copy of the certificate of marriage of your parents and copies of proof of the legal termination of their prior marriages;

• If you are the legitimated child of your legalized alien father, file copies of evidence of the legitimation, which must have occurred prior to your eighteenth birthday, and copies of proof of the legal termination of your parent's prior marriages if legitimation resulted from your natural parents' marriage to each other;

• If you are a child born out-of-wedlock of a legalized alien who purports to be your father, file copies of evidence to show that your father is your natural father and that a bona fide parent-child relationship exists or did exist while you are or were unmarried and under twenty-one (21) years of age. Such a relationship exists or has existed where your father shows, or has shown, an active concern for your support, instruction, and general welfare. Evidence to show that your father is your natural parent may include, but is not limited to the following: a copy of your birth certificate or religious document relating to your birth or baptism; copies of local civil records; affidavits from knowledgeable witnesses, and/or; copies of evidence of our financial support by your putative father.

• If you are the child of a legalized alien adoptive parent, file a certified copy of your adoption decree showing that you were adopted while under the age of 16 years, a copy of the legal custody decree if your custody was obtained before adoption, and a statement showing the dates and places you and your adoptive parent have lived together.

Fingerpint cards. If you are age 14 or older, you must file this applicIation with 2 completed and signed Fingerprint Cards, Form FD–258.

Photos. You must submit 2 identical natural color photographs of yourself taken within 30 days of this application. The photographs must have a white background, be unmounted, printed on thin paper, and be glossy and unretouched. They should show a three-quarter frontal profile showing the right side of your face, with your right ear visible and with your head bare (unless you are wearing a headdress as required by a religious order of which you are a member).

The photos should be no larger than 2 × 2 inches, with the distance from the top of the head to just below the chin about 1 and ¼ inches. Lightly print your A# on the back of each photo with a pencil.

General Evidence

Change of name—If either you or the legalized alien are using a name other than that shown on the relevant documents, you must file your application with copies of the legal documents that made the change, such as a marriage certificate, adoption decree or court order.

Secondary evidence—All of the documents listed in "Initial Evidence" should be issued by the civil registrar, vital statistics office, or other civil authority. If such documents are unavailable, you must file your petition with original evidence from those authorities to establish that all primary evidence is unavailable, and must also submit secondary evidence to establish the facts in question. Submit as many types of secondary evidence as possible to verify the claimed relationship. Listed below are some types of secondary evidence. Any evidence submitted must contain enough information (birth dates, parents' names, etc.) to establish the event you are trying to prove.

• Baptismal certificate. A certificate under the seal of the church where the baptism occurred within two months after birth showing date and place of the child's birth, date of baptism, and the names of the child's parents.

• School record. A letter from the school authorities having jurisdiction over school attended (preferably the first school), showing the date of admission to the school, child's date of birth or age at that time, place of birth, and the names and places of birth of parents, if shown in the school records.

• Census record. State or federal census record showing the name(s) and place(s) of birth, the date(s) of birth or age(s) of the person(s) listed.

If all forms of primary and secondary evidence are unavailable, you must file your petition with original evidence to establish such unavailability, and also submit at least 2 affidavits sworn to, or affirmed, by persons who were living at the time, and have direct personal knowledge of the event you are trying to prove (date and place of birth, marriage, death, etc.). These persons may be relatives and need not be citizens of the United States. Each affidavit should give the person's full name and address, date and place of birth, and any relationship to you. Each affidavit must also fully describe the circumstances or event in question, and fully explain how he or she acquired knowledge of the event.

Translations—Any foreign language document must be accompanied by a full English translation which the translator has certified as complete and correct, and by the translator's certification that he or she is competent to translate from the foreign language into English.

Copies—If these instructions state that a copy of a document may be filed with this application, and you choose to send us the original, we may keep that original for our records.

Where To File

If you live in Connecticut, Delaware, District of Columbia, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Puerto Rico, Rhode Island, Vermont, the Virgin Islands, Virginia, or West Virginia, mail your application to: USINS Eastern Service Center, 75 Lower Welden Street, St. Albans, VT 05479–0001.

If you live in Alabama, Arkansas, Florida, Georgia, Kentucky, Louisiana, Mississippi, New Mexico, North Carolina, Oklahoma, South Carolina, Tennessee, or Texas, mail your application to: USINS Southern Service Center, P.O. Box 152122, Dept. A, Irving, TX 75015–2122.

If you live in Arizona, California, Guam, Hawaii, or Nevada, mail your application to: USINS Western Service Center, P.O. Box 30040, Laguna Niguel, CA 92607–0040.

If you live elsewhere in the U.S., mail your application to: USINS Northern Service Center, 100 Centennial Mail North, Room B–26, Lincoln, NE 68508.

Fee

The fee for this application is $75.00. The fee must be submitted in the exact amount. It cannot be refunded. DO NOT MAIL CASH.

All checks and money orders must be drawn on a bank or other institution located in the United States and must be payable in United States currency. The check or money order should be made payable to the Immigration and Naturalization Service, except that:

• If you live in Guam, and are filing this application in Guam, make your check or money order payable to the "Treasurer, Guam."

• If you live in the Virgin Islands, and are filing this application in the Virgin Islands, make your check or money order payable to the "Commissioner of Finance of the Virgin Islands."

Checks are accepted subject to collection. An uncollected check will render the application and any document issued invalid. A charge of $5.00 will be imposed if a check

in payment of a fee is not honored by the bank on which it is drawn.

Processing Information

Rejection—Any application that is not signed or is not accompanied by the correct fee will be rejected with a notice that it is deficient. You may correct the deficiency and resubmit the application. However, an application is not considered properly filed until accepted by the Service. If you do not completely fill out the form, or file it without required initial evidence, you will not establish a basis for eligibility, and we may deny your application.

Initial processing—Once the application has been accepted, it will be checked for completeness, including submission of the required initial evidence.

Requests for more information or interview—We may request more information or evidence or we may request that you appear at an INS office for an interview. We may also request that you submit the originals of any copy. We will return these originals when they are no longer required.

Decision—You will be notified in writing of the decision on your application. If your application is approved, you will be issued evidence of your Voluntary Departure Status.

If your application is denied, your case will be referred to the INS office that has jurisdiction over your place of residence, for consideration of whether to issue an Order to Show Cause as to why you should not be deported from the United States. Your case will not be referred for at least 60 days after the date the denial of this application to allow you to file another I–817 application if you feel that the denial can be overcome.

Penalties

If you knowingly and willfully falsify or conceal a material fact or submit a false document with this request, we will deny the benefit you are filing for, and may deny any other immigration benefit. In addition, you will face severe penalties provided by law, and may be subject to criminal prosecution.

Privacy Act Notice

We ask for the information on this form, and associated evidence, to determine if you have established eligibility for the immigration benefit you are filing for. Our legal right to ask for this information is in 8 USC 1154. We may provide this information to other government agencies. Failure to provide this information, and any requested evidence, may delay a final decision or result in denial of your application.

Paperwork Reduction Act Notice

We try to create forms and instructions that are accurate, can be easily understood, and which impose the least possible burden on you to provide us with information. Often this is difficult because some immigration laws are very complex. The estimated average time to complete and file this application is as follows: (1) 25 minutes to learn about the law and form; (2) 1 hour to complete the form; and (3) 1 hour and 10 minutes to assemble and file the petition; for a total estimated average of 2 hours and 35 minutes per petition. If you have comments regarding the accuracy of this estimate, or suggestions for making this form simpler, you can write to both the Immigration and Naturalization Service, 425 I Street, N.W., Room 5304, Washington, D.C. 20536; and the Office of Management and Budget, Paperwork Reduction Project, OMB No. 1115–0166, Washington, D.C. 20503.

BILLING CODE 4410–10–M

DRAFT

U.S. Department of Justice
Immigration and Naturalization Service

OMB No. 1115-0166

Application for Voluntary Departure Under the Family Unity Program

START HERE - Please Type or Print

PART 1. Information about you, the applicant for Family Unity Benefits

Family Name	Given Name	Middle Initial

Address - C/O

Street	Apt. #

City	State	Zip Code

Date of Birth (month/day/year)	Country of Birth
Social Security #	A#
Date of Arrival month/day/year	I-94#
Current INS Status	Expires (month/day/year)

Part 2. Type of Application.

1 Relationship to a legalized alien *(check one)*:

a. ☐ I am the spouse of a legalized alien and have been married to him or her since at least May 5, 1988.

b. ☐ I am the unmarried child of a legalized alien and this relationship was established on or before May 5, 1988.

2. I am applying for *(check one)*:

a. ☐ Initial voluntary departure under the Family Unity Program.

b. ☐ An extension of voluntary departure granted under the Family Unity Program.

Part 3. Information about the legalized alien you are related to.

Family Name	Given Name	Middle Initial

Address - C/O

Street Number and Name	Apt. #

City	State	Zip Code

Date of Birth (month/day/year)	Country of Birth
Social Security #	A#

Part 4. Processing Information.

A. If separate applications for Family Unity benefits are also being submitted for other relatives, give names of each and list relationship. _____

_____

B. Have you ever applied for Family Unity benefits before? ☐ Yes ☐ No

C. If "Yes", give name under which you applied, place and date of filing, #A assigned, and result.

_____

_____

Form I-817 (Rev. 07/03/91)N DRAFT 2

Continued on back.

FOR INS USE ONLY

	Receipt
Returned	
Resubmitted	
Reloc Sent	
Reloc Rec'd	

Remarks

Action Block

To Be Completed by *Attorney or Representative*, if any

☐ Fill in box if G-28 is attached to represent the applicant

VOLAG#

ATTY State License #

Part 4. Processing Information *(con't)*.

D. Have you ever been in exclusion or deportation proceedings? ☐ No ☐ Yes. If yes, explain on a separate sheet, including where and when the proceedings took place.

E. Address where you resided in the United States on May 5, 1988

Street	Apt. #	City	State	Zip Code

F. Answer the following. If your answer is yes to any question, explain in detail on a separate sheet.

1. Have you ever, in or outside the U. S.:
   a. knowingly committed a crime for which you have not been arrested? ☐ Yes ☐ No
   b. been arrested, cited, charged, indicted, fined, or imprisoned for breaking or violating any law or ordinance, excluding traffic violations? ☐ Yes ☐ No
   c. been the beneficiary of a pardon, amnesty, rehabilitation decree, other act of clemency or similar action? ☐ Yes ☐ No
2. Have you been convicted of any felony or 3 or more misdemeanors committed in the United States? ☐ Yes ☐ No
3. Have you ever exercised diplomatic immunity to avoid prosecution for a criminal offense in the U. S.? ☐ Yes ☐ No
4. Have you received public assistance from any source, including the U.S. government or any state, county, city, or municipality; or are you likely to request public assistance in the future? ☐ Yes ☐ No
5. Do you have, or have you ever had, a mental or physical disorder which does or may pose a threat to yourself or others? ☐ Yes ☐ No
6. Have you ever:
   a. been a habitual drunkard? ☐ Yes ☐ No
   b. advocated or practiced polygamy? ☐ Yes ☐ No
   c. been a prostitute or procured anyone for prostitution? ☐ Yes ☐ No
   d. knowingly and for gain helped any alien to enter the U.S. illegally? ☐ Yes ☐ No
   e. been an illicit trafficker in narcotic drugs or marijuana? ☐ Yes ☐ No
   f. received income from illegal gambling? ☐ Yes ☐ No
   g. given false testimony for the purpose of obtaining any immigration benefit or entry to the U.S.? ☐ Yes ☐ No
7. Have you ever, or do you intend to engage in:
   a. any activity to violate any law of the U.S. relation to espionage or sabotage? ☐ Yes ☐ No
   b. any activity to violate or evade any law prohibiting the export from the U.S. of goods, technology, or sensitive information? ☐ Yes ☐ No
   c. any activity a purpose of which is the opposition to, or the control or overthrow of , the Government of the United States by force, violence, or other unlawful means? ☐ Yes ☐ No
8. Have you ever prepared, planned, gathered information for, provided any type of material support for, solicited funds or other things of value for, or solicited membership in organizations that were involved in, terrorist activities? ☐ Yes ☐ No
9. Are you now, or have you ever been a member of, or in any way connected or associated with the Communist Party, or ever knowingly aided or supported the Communist Party directly, or indirectly through another organization, group or person, or ever advocated, taught, believed in, or knowingly supported or furthered the interests of communism? ☐ Yes ☐ No
10. During the period March 23, 1933 to May 8, 1945, did you serve in, or were you in any way affiliated with, either directly or indirectly, any military unit, paramilitary unit, police unit, self-defense unit, vigilante unit, citizen unit of the Nazi party or SS, government agency or office, extermination camp, concentration camp, prisoner of war camp, prison, labor camp, detention camp or transit camp, under the control or affiliated with:
    a. The Nazi Government of Germany? ☐ Yes ☐ No
    b. Any government in any area occupied by, allied with, or established with the assistance or cooperation of, the Nazi Government of Germany? ☐ Yes ☐ No
11. Have you at any time, anywhere, ever ordered, incited, assisted, or otherwise participated in the persecution of any person because of race, religion, national origin, or political opinion? ☐ Yes ☐ No
12. Have you been excluded from the U.S. within the past year, or have you been deported or removed from the U.S. at government expense within the last 5 years (20 years if you have been convicted of a felony)? ☐ Yes ☐ No

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Part 4. Processing Information *(con't)*.

13. Are you under a final order of civil penalty for violation of section 274C of the Immigration Act? ☐ Yes ☐ No

14. Have you ever left the U.S. to avoid being drafted into the U.S. Armed Forces? ☐ Yes ☐ No

15. Are you a former J exchange visitor who is subject to, but has not complied with, the 2-year foreign residence requirement? ☐ Yes ☐ No

Part 5. Complete only if legalized alien is your spouse.

Section 1. *Additional Information about you, the applicant.*

Home Phone ( ) | Work Phone ( )

List all other names used (i.e. maiden name, aliases)

Sex: ☐ Male ☐ Female | Number of Prior Marriag ☐ None ☐ One ☐ Two ☐ Three or more - How many_____ *(Attach evidence of the termination of each prior marriage)*

Section 2. *Additional Information about your legalized alien spouse.*

Home Phone of Legalized Alien ( ) | Work Phone of Legalized Alien ( )

List all other names used (i.e. maiden name, aliases)

Sex: ☐ Male ☐ Female | Number of Prior Marriages ☐ None ☐ One ☐ Two ☐ Three or more - How many_____ *(Attach evidence of the termination of each prior marriage).*

Section 3. *Information about your marriage.*

We first met on *(date)* / / | We were married on *(date)* / / | We were married in *(City U.S. State or Country)*

Type of Ceremony: ☐ Religious ☐ Civil ☐ None | We are: ☐ Now living together ☐ Not living together

We are or intend to: *(Check one)*
- ☐ Live together in a home or apartment
- ☐ Live together with my family
- ☐ Live together with my spouse's family
- ☐ Live together with non-relatives
- ☐ Live separately from each other

We have the following Joint Financial Assets or Contracts: *(Check one)*
- ☐ Checking and/or Savings account
- ☐ Lease for apartment we occupy
- ☐ Mortgage for home we occupy
- ☐ Credit cards
- ☐ Consumer Loans

List three people (such as relatives, friends neighbors, co-workers, or employers) who know of your relationship:

1.	Name	Relationship	How long known
	Address		Phone number
2.	Name	Relationship	How long known
	Address		Phone number
3.	Name	Relationship	How long known
	Address		Phone number

Continued on back

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Part 6. Complete only if you are the child of a legalized alien.

Sex: ☐ Male ☐ Female	Are you married? ☐ Yes ☐ No	List the following information concerning prior marriages. Name of former spouse	Married on	Ended on	How ended (divorced, widowed, etc.)
			/ /	/ /	
Number of prior marriages ☐ None ☐ One ☐ Two ☐ Three or more - How Many_____			/ /	/ /	
			/ /	/ /	
			/ /	/ /	
			/ /	/ /	

My legalized alien parent is my: *(check one)*

☐ biological mother

☐ biological father who was married to my mother when I was born

☐ biological father who was not married to my mother when I was born

☐ adoptive parent:

1. Did the adoption occur before your 16th birthday? ☐ Yes ☐ No
2. Did your parent have custody of you for at least 2-years after the adoption? ☐ Yes ☐ No
3. Did you live with your parent for at least 2 years after the adoption? ☐ Yes ☐ No

☐ stepparent based on marriage to my parent which occurred before my 18th birthday.

☐ parent based on circumstances not described above *(explain in detail on separate paper).*

Part 7. Signature.

(Read the information on penalties in the instructions before completing this part. You must file this application while in the United States.)

I certify under penalty of perjury under the laws of the United States of America that this application, and the evidence submitted with it, is all true and correct. I authorize the release of any information from my records which the Immigration and Naturalization Service needs to determine eligibility for the benefit I am seeking

Signature **Print Your Name** ***Date***

Address

Part 8. Signature of person preparing form if other than above. *(Sign Below)*

I declare that I prepared this application at the request of the above person and it is based on all information of which I have knowledge.

Signature **Print Your Name** ***Date*** ***Day time Phone Number***

Firm Name
and Address

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BILLING CODE 4410-10-C

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U.S. Department of Justice

Immigration and Naturalization Service

OMB# 1115–XXXX

Petition for Amerasian, Widow(er), or Special Immigrant

Instructions

Purpose of This Form

This petition is used to classify an alien as an Amerasian, Widow(er), or as a Special Immigrant (Juvenile, Religious Worker, based on employment with the Panama Canal Company, Canal Zone Government or U.S. government in the Canal Zone, Physician, International Organization Employee or family member).

Who May File; Initial Evidence Requirements

If these instructions state that a copy of a document may be filed with this petition, and you choose to send us the original, we may keep that original for our records. Any foreign language document must be accompanied by an English translation certified by the translator that he/she is competent to translate from the foreign language into English and that the translation is accurate.

Amerasian. Any person who is 18 or older, an emancipated minor, or a U.S. corporation may file this petition for an alien who was born in Korea, Vietnam, Laos, Kampuchea, or Thailand after December 31, 1950, and before October 22, 1982, and was fathered by a U.S. citizen.

The petition must be filed with:

- copies of evidence the person this petition is for was born in one of the above countries between those dates. If he/she was born in Vietnam, you must also submit a copy of his/her Vietnamese I.D. card, or an affidavit explaining why it is not available.
- copies of evidence establishing the percentage of the person, and of evidence establishing that the biological father was a U.S. citizen. Examples of documents that may be submitted are birth or baptismal records or other religious documents; local civil records; an affidavit, correspondence or evidence of financial support from the father; photographs of the father (especially with the child); or, absent other documents, affidavits from knowledgeable witnesses which detail the parentage of the child and how they know such facts.
- a photograph of the person;
- if the person is married, submit a copy of the marriage certificate, and proof of the termination of any prior marriages;
- if the person is under 18 years old, submit a written statement from his/her mother or legal guardian which:
- irrevocably releases him/her for emigration and authorizes the placing agencies to make necessary decisions for his/her immediate care until a sponsor receives custody;
- shows an understanding of the effects of the release, and states whether any money was paid or coercion used prior to obtaining the release;
- includes the full name, date and place of birth, and present or permanent address of the mother or guardian, and with the signature of the mother or guardian on the release authenticated by a local registrar, court of minors, or a U.S. Immigration or consular officer.

The following sponsorship documents are also required. You may file these documents with the petition, or wait until we review the petition and request them. However, not filing them with the petition will add to the overall processing time.

- An Affidavit of Financial Support, executed by the sponsor, with the evidence of financial ability required by that form. Please note the original sponsor remains financially responsible for the Amerasian if any subsequent sponsor fails in this area.
- Copies of evidence the sponsor is at least 21 years old and is a U.S. citizen or permanent resident.
- Fingerprints of the sponsor on Form FD–258.
- If this petition is for a person under 18 years old, the following documents issued by a placement agency must be submitted:
- a copy of the private, public or state agency's license to place children in the U.S., proof of the agency's recent experience in the intercountry placement of children and of the agency's financial ability to arrange the placement;
- a favorable home study of the sponsor conducted by a legally authorized agency;
- a pre-placement report from the agency, including information regarding any family separation or dislocation abroad that would result from the placement;
- a written description of the orientation given to the sponsor and to the parent or guardian on the legal and cultural aspects of the placement;
- a statement from the agency showing that the sponsor has been given a report on the pre-placement screening and evaluation of the child;
- a written plan from the agency to provide follow-up services, including mediation and counseling, and describing the contingency plans to place the person this petition is for in another suitable home if the initial placement fails.

Widow(er) of a United States citizen. You can file this petition on your own behalf if:

- you were married for at least two years to a U.S. citizen who is now deceased and who had been a U.S. citizen for at least two years at the time of death;
- your citizen spouse's death was less than two years ago;
- you were not legally separated from your citizen spouse at the time of death, and you have not remarried.

The petition must be filed with:

- a copy of your marriage certificate to the U.S. citizen and proof of termination of any prior marriages of either of you;
- copies of evidence that your spouse was a U.S. citizen, such as a birth certificate if born in the U.S.; Naturalization Certificate or Certificate of Citizenship issued by this Service; Form FS–240, Report of Birth Abroad of a Citizen of the United States, or a U.S. passport which was valid at the time of the citizen's death;
- a copy of the death certificate of your U.S. citizen spouse.

Special immigrant juvenile. Any person, including the alien, can file this petition for an alien who:

- is unmarried;
- has been declared dependent upon a juvenile court in the U.S. and has been found eligible by that court for long-term foster care;
- is still a juvenile under the law of the state in which the juvenile court is located and is still dependent upon the court and eligible for long term foster care; and
- has been the subject of administrative or judicial proceedings in which it was determined that it would not be in his/her best interests to be returned to his/her country of nationality or last habitual residence, or to his/her parent's country of nationality or last habitual residence. However, after a person is admitted as a Juvenile, his/her parent may not receive any immigration benefit based on being his/her parent.

The petition must be filed with:

- copies of the court documents upon which your claim to eligibility is based.

Special immigrant religious worker. Any person, including the alien, can file this petition for an alien who for the past 2 years has been a member of a religious denomination which has a bona fide nonprofit, religious organization in the U.S.; and who has been carrying on the vocation, professional work, or other work described below, continuously for the past 2 years; and seeks to enter the U.S. to work solely:

- as a minister of that denomination; or
- in a professional capacity in a religious vocation or occupation for that organization; or
- in a religious vocation or occupation for the organization or its nonprofit affiliate.

A petition for a special immigrant for a person who is not a minister may only be filed until October 1, 1994.

The petition must be filed with:

- a letter from the authorized official of the religious organization establishing that the proposed services and alien qualify as above;
- a letter from the authorized official of the religious organization attesting to the alien's membership in the religious denomination and explaining, in detail, the person's religious work and all employment during the past 2 years and the proposed employment; and
- a copy of the tax-exempt certificate establishing that the religious organization, and any affiliate which will employ the person, is a bona fide nonprofit religious organization in the U.S. and is exempt from taxation under section 501(c)(3) of the Internal Revenue Code of 1986.

Special immigrant based on employment with the Panama Canal Company, Canal Zone government or U.S. government in the Canal Zone. Any person can file this petition for an alien who, at the time the Panama Canal Treaty of 1977 entered into force, either:

- was resident in the Canal Zone and had been employed by the Panama Canal Company or Canal Zone Government for at least 1 year; or

• was a Panamanian national and either honorably retired from U.S. Government employment in the Canal Zone with a total of 15 or more years of faithful service or so employed for 15 years and since honorably retired; or

• was an employee of the Panama Canal Company or Canal Zone government, had performed faithful service for 5 years or more as an employee, and whose personal safety, or the personal safety of his/her spouse or child, is in danger as a direct result of the special nature of his/her employment and as a direct result of the Treaty.

The petition must be filed with:

• a letter from the Panama Canal Company, Canal Zone government or U.S. Government agency employing the person in the Canal Zone, indicating the length and circumstances of employment and any retirement or termination;

• copies of evidence to establish any claim of danger to personal safety.

Special immigrant physician. Any person may file this petition for an alien who:

• graduated from a medical school or qualified to practice medicine in a foreign state;

• was fully and permanently licensed to practice medicine in a State of the U.S. on January 9, 1978, and was practicing medicine in a State on that date;

• entered the U.S. as an "H" or "J" nonimmigrant before January 9, 1978; and

• has been continuously present in the U.S. and continuously engaged in the practice or study of medicine since the date of such entry.

The petition must be filed with:

• letters from the person's employers, detailing his/her employment since January 8, 1978, including the current employment;

• copies of relevant documents that demonstrate that the person filed for meets all the above criteria.

Special immigrant international organization employee or family member. Certain long-term "G" and "N" nonimmigrant employees of a qualifying international organization entitled to enjoy privileges, exemptions and immunities under the International Organizations Immunities Act, and certain relatives of such an employee, may be eligible to apply for classification as a Special Immigrant. To determine eligibility, contact the qualifying international organization or your local INS office. The petition must be filed with:

• a letter from the international organization demonstrating that it is a qualifying organization and explaining the circumstances of qualifying employment and the immigration status held by the person the petition is for; and

• copies of evidence documenting the relationship between the person this petition is for and the employee.

General Filing Instructions

Please answer all questions by typing or clearly printing in black ink only. Indicate that an item is not applicable with "N/A". If an answer is "none," please so state. If you need extra space to answer any item, attach a sheet of paper with your name and your alien registration number (A#), if any, and indicate the number of the item the answer refers to. Every petition must be properly signed, and accompanied by the proper fee. If you are under 14 years of age, your parent or guardian may sign the petition.

Where to File

If you are filing for a Special Immigrant Juvenile, file the petition at the local INS office having jurisdiction over the place he/she lives.

If you are filing for Amerasian classification and the person you are filing for is outside the United States, you may file this petition at the INS office that has jurisdiction over the place he/she lives or the office that has jurisdiction over the place he/she will live.

In all other instances file this petition at an INS Service Center, as follows:

If you live in Connecticut, Delaware, District of Columbia, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Puerto Rico, Rhode Island, Vermont, Virgin Islands, Virginia, or West Virginia, mail this petition to USINS, Eastern Service Center, 75 Lower Weldon Street, St. Albans, VT 05479–0001.

If you live in Alabama, Arkansas, Florida, Georgia, Kentucky, Louisiana, Mississippi, New Mexico, North Carolina, Oklahoma, South Carolina, Tennessee, or Texas, mail this petition to USINS, Southern Service Center, P.O. Box 152122, Dept. A, Irving, TX 75015–2122.

If you live in Arizona, California, Guam, Hawaii, or Nevada, mail this petition to USINS, Western Service Center, P.O. Box 30040, Laguna Niguel, CA 92607–0040.

If you live elsewhere in the U.S., mail this petition to USINS, Northern Service Center, 100 Centennial Mall North, Room B–26, Lincoln, NE 68508.

Fee

The fee for this petition is $75.00, except that there is no fee if you are filing for an Amerasian. The fee must be submitted in the exact amount. It cannot be refunded. DO NOT MAIL CASH. All checks and money orders must be drawn on a bank or other institution located in the United States and must be payable in United States currency. The check or money order should be made payable to the Immigration and Naturalization Service, except that:

• If you live in Guam, and are filing this application in Guam, make your check or money order payable to the "Treasurer, Guam."

• If you live in the Virgin Islands, and are filing this application in the Virgin Islands, make your check or money order payable to the "Commissioner of Finance of the Virgin Islands."

Checks are accepted subject to collection. An uncollected check will render the application and any document issued invalid. A charge of $5.00 will be imposed if a check in payment of a fee is not honored by the bank on which it is drawn.

Processing Information

Rejection—Any petition that is not signed or is not accompanied by the correct fee will be rejected with a notice that the petition is deficient. You may correct the deficiency and resubmit the petition. However, a petition is not considered properly filed until accepted by the Service.

Initial processing—Once the petition has been accepted, it will be checked for completeness, including submission of the required initial evidence. If you do not completely fill out the form, or file it without required initial evidence, you will not establish a basis for eligibility and we may deny your petition.

Requests for additional information or interview—We may request additional information or evidence or we may request that you appear at an INS office for an interview. We may also request that you submit the originals of any copy. We will return these originals when they are no longer required.

Decision—If you establish that the person this petition is for is eligible for the requested classification, we will approve the petition. We will send it to the U.S. Embassy/Consulate for visa issuance unless he or she is in the U.S. and appears eligible and intends to apply for adjustment to permanent resident status while here. If you do not establish eligibility, we will deny the petition. We will notify you in writing of our decision.

Penalties

If you knowingly and willfully falsify or conceal a material fact or submit a false document with this request, we will deny the benefit you are filing for, and may deny any other immigration benefit. In addition, you will face severe penalties provided by law, and may be subject to criminal prosecution.

Privacy Act Notice

We ask for the information on this form, and associated evidence, to determine if you have established eligibility for the immigration benefit you are filing for. Our legal right to ask for this information is in 8 USC 1154. We may provide this information to other government agencies. Failure to provide this information, and any requested evidence, may delay a final decision or result in denial of your request.

Paperwork Reduction Act Notice

We try to create forms and instructions that are accurate, can be easily understood, and which impose the least possible burden on you to provide us with information. Often this is difficult because some immigration laws are very complex. Accordingly, the reporting burden for this collection of information is computed as follows: (1) learning about the law and form, 15 minutes; (2) completing the form, 20 minutes; and (3) assembling and filing the application, 55 minutes for an estimated average of 1 hour and 30 per response. if you have comments regarding the accuracy of this estimate, or suggestions for making this form simpler, you can write to both the Immigration and Naturalization Service, 425 I Street, NW., Room 5304, Washington, D.C. 20536; and the Office of Management and Budget, Paperwork Reduction Project, OMB No. 1115–XXXX, Washington, D.C. 20503.

BILLING CODE 4410–10–M

U.S. Department of Justice
Immigration and Naturalization Service

DRAFT

OMB #1115 XXXX

Petition for Amerasian, Widow or Special Immigrant

START HERE - Please Type or Print

Part 1. Information about person or organization filing this petition.

(Individuals should use top name line; organizations should use the second line.) *If you are filing for yourself, skip to Part 2. A widow(er) must file for him/her self.*

Family Name	Given Name	Middle Initial
Company or Organization Name		
Address - C/O		
Street Number and Name		Apt. #
City	State or Province	
Country		ZIP/Postal Code
U.S. Social Security #	A #	IRS Tax # (if any)

Part 2. Classification Requested (check one):

a. ☐ Amerasian
b. ☐ Widow(er) of a U.S. citizen who died within the past 2 years
c. ☐ Special Immigrant Juvenile
d. ☐ Special Immigrant Religious Worker
e. ☐ Special Immigrant based on employment with the Panama Canal Company, Canal Zone Government or U.S. Government in the Canal Zone
f. ☐ Special Immigrant Physician
g. ☐ Special Immigrant International Organization Employee or family member

Part 3. Information about the person this petition is for.

Family Name	Given Name	Middle Initial
Address - C/O		
Street Number and Name		Apt. #
City	State or Province	
Country		ZIP/Postal Code
Date of Birth (Month/Day/Year)	Country of Birth	
U.S. Social Security #	A #	

Complete the items below if this person is in the United States:

Date of Arrival (Month/Day/Year)	I-94 #
Current Nonimmigrant Status	Expires on (Month/Day/Year)

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Form I-360 (Rev. 07/17/91) DRAFT 11

Continued on back.

FOR INS USE ONLY

Returned	Receipt
Resubmitted	
Reloc Sent	
Reloc Rec'd	
☐ Petitioner/ Applicant Interviewed ☐ Beneficiary Interviewed	
☐ I-485 Filed Concurrently ☐ Bene "A" File Reviewed	
Classification	
Consulate	
Priority Date	
Remarks:	
Action Block	

To Be Completed by *Attorney or Representative*, if any

☐ Fill in box if G-28 is attached to represent the applicant

VOLAG#

ATTY State License #

Part .4. Processing Information.

Below give the United States Consulate you want notified if this petition is approved and if any requested adjustment of status cannot be granted.

American Consulate: City	Country

If you gave a United States address in Part 3, print the person's foreign address below. If his/her native alphabet does not use Roman letters, print his/her name and foreign address in the native alphabet.

Name	Address

Sex of the person this petition is for.	☐ Male	☐ Female
Are you filing any other petitions or applications with this one?	☐ No	☐ Yes (How many? _____)
Is the person this petition is for in exclusion or deportation proceedings?	☐ No	☐ Yes (Explain on a separate sheet of paper)
Has the person this petition is for ever worked in the U.S. without permission?	☐ No	☐ Yes (Explain on a separate sheet of paper)
Is an application for adjustment of status attached to this petition?	☐ No	☐ Yes

Part 5. Complete only if filing for an Amerasian.

Section A. Information about the mother of the Amerasian

Family Name	Given Name	Middle Initial

Living? ☐ No (Give date of death _____) ☐ Yes (complete address line below) ☐ Unknown (attach a full explanation)

Address

Section B. Information about the father of the Amerasian

If possible, attach a notarized statement from the father regarding parentage. Explain on separate paper any question you cannot fully answer in the space provided on this form.

Family Name	Given Name	Middle Initial

Date of Birth (Month/Day/Year)	Country of Birth

Living? ☐ No (give date of death _____) ☐ Yes (complete address line below) ☐ Unknown (attach a full explanation)

Home Address

Home Phone #	Work Phone #

At the time the Amerasian was conceived:

☐ The father was in the military (indicate branch of service below - and give service number here): _____

☐ Army ☐ Air Force ☐ Navy ☐ Marine Corps ☐ Coast Guard

☐ The father was a civilian employed abroad. Attach a list of names and addresses of organizations which employed him at that time.

☐ If the father was not in the military, and was not a civilian employed abroad, attach a full explanation of the circumstances.

Part 6. Complete only if filing for a Juvenile.

Section A. Information about the Juvenile

List any other names used.

Marital Status: ☐ Single ☐ Married ☐ Divorced ☐ Widowed

Answer the following questions regarding the person this petition is for. If you answer "no" explain on a separate sheet of paper.

Is he/she still a juvenile under the laws of the state in which the juvenile court upon which the alien has been declared dependent is located?	☐ No	☐ Yes
Does he/she continue to be dependent upon the juvenile court?	☐ No	☐ Yes
Does he/she continue to be eligible for long term foster care?	☐ No	☐ Yes

Continued on next page.

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Part 7. Complete only if filing for a Widow or Widower.

Section A. Information about the U.S. citizen husband or wife who died.

Family Name	Given Name	Middle Initial

Date of Birth (Month/Day/Year)	Country of Birth	Date of Death (Month/Day/Year)

His/her U.S. citizenship was based on (check one)

☐ Birth in the U.S. ☐ Birth abroad to USC parent(s) ☐ Naturalization

Section B. Additional Information about you.

How many times have you been married?	How many times was the person in Section A married?

Give the date and place you and the person in Section A were married.

Did you live with this U.S. citizen spouse from the date you were married until he/she died?

☐ Yes ☐ No (attach explanation)

Were you legally separated at the time of the United States citizen's death?

☐ Yes (attach explanation) ☐ No

Give your address at the time of the United States citizen's death.

Part 8. Information about the children and spouse of the person this petition is for.

For a widow or widower, include any children of your deceased spouse.

A.	Family Name	Given Name	Middle Initial	Date of Birth (Month/Day/Year)
	Country of Birth	Relationship ☐ Spouse ☐ Child		A #
B.	Family Name	Given Name	Middle Initial	Date of Birth (Month/Day/Year)
	Country of Birth	Relationship ☐ Spouse ☐ Child		A #
C.	Family Name	Given Name	Middle Initial	Date of Birth (Month/Day/Year)
	Country of Birth	Relationship ☐ Spouse ☐ Child		A #
D.	Family Name	Given Name	Middle Initial	Date of Birth (Month/Day/Year)
	Country of Birth	Relationship ☐ Spouse ☐ Child		A #
E.	Family Name	Given Name	Middle Initial	Date of Birth (Month/Day/Year)
	Country of Birth	Relationship ☐ Spouse ☐ Child		A #
F.	Family Name	Given Name	Middle Initial	Date of Birth (Month/Day/Year)
	Country of Birth	Relationship ☐ Spouse ☐ Child		A #
G.	Family Name	Given Name	Middle Initial	Date of Birth (Month/Day/Year)
	Country of Birth	Relationship ☐ Spouse ☐ Child		A #
H.	Family Name	Given Name	Middle Initial	Date of Birth (Month/Day/Year)
	Country of Birth	Relationship ☐ Spouse ☐ Child		A #

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Continued on back.

Part 9. Signature.

Read the information on penalties in the instructions before completing this part. If you are going to file this petition at an INS office in the United States, sign below. If you are going to file it at a U.S. consulate or INS office overseas, sign in front of a U.S. INS or consular official.

I certify, or, if outside the United States, I swear or affirm, under penalty of perjury under the laws of the United States of America, that this petition, and the evidence submitted with it, is all true and correct. If filing this on behalf of an organization, I certify that I am empowered to do so by that organization. I authorize the release of any information from my records, or from the petitioning organization's records, which the Immigration and Naturalization Service needs to determine eligibility for the benefit being sought.

Signature		Date
Signature of INS or Consular Official	Print Name	Date

Please Note: *If you do not completely fill out this form, or fail to submit required documents listed in the instructions, then the person(s) filed for may not be found eligible for a requested benefit, and it may have to be denied.*

Part 10. Signature of person preparing form if other than above. (sign below)

I declare that I prepared this application at the request of the above person and it is based on all information of which I have knowledge.

Signature	Print Your Name	Date
Firm Name and Address		

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[FR Doc. 91–19699 Filed 8–16–91; 8:45 am]
BILLING CODE 4410–10–C

NUCLEAR REGULATORY COMMISSION

Documents Containing Reporting or Recordkeeping Requirements; Office of Management and Budget (OMB) Review

AGENCY: Nuclear Regulatory Commission (NRC).

ACTION: Notice of the Office of Management and Budget review of information collection.

SUMMARY: The Nuclear Regulatory Commission has recently submitted to the Office of Management and Budget (OMB) for review the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35).

1. Type of submission, new, revision, or extension: Revision.

2. The title of the information collection: Requirements for Possession of Industrial Devices Containing Byproduct Material—10 CFR 31.5, 31.6, 32.51a, and 32.52.

3. The form number if applicable: Not Applicable.

4. How often is the collection required: Collection will continue to be required on a quarterly basis from specific licensees who transfer devices to general licensees. In addition, general licensees will be required to report initially, and then on a periodic basis.

5. Who will be required or asked to report: Specific licensees (distributors) authorized to distribute devices and general licensees.

6. An estimate of the number of additional responses: Specific Licensees—32,158 annually and General Licensees—29,705 annually.

7. An estimate of the number of additional hours needed to complete the requirement or request: Specific Licensees—608 hours (one time cost for system changes) and 1,636 hours annually, and General Licensees—10,894 hours annually.

8. The average burden per response is: Specific Licensees—3 minutes and General Licensees—20 minutes.

9. An indication of whether section 3504(h), Public Law 96–511 applies: Applicable.

10. Abstract: The proposed rule would require general licensees to respond to NRC with information about radioactive material used under the general license provisions of § 31.5 of 10 CFR part 31. In addition, corresponding changes would be made in the transfer reporting requirements imposed on persons authorized to distribute byproduct material under 10 CFR 31.5 and 32.52. These changes would require distributors of devices to use a uniform format or to provide all of the information required by the format on a clear and legible record when submitting their quarterly reports.

Copies of the submittal may be inspected or obtained for a fee from the NRC Public Document Room, 2120 L Street, NW. (Lower Level), Washington, DC.

Comments and questions can be directed by mail to the OMB reviewer: Ronald Minsk, Office of Information and Regulatory Affairs, (3150–0016) and (3150–0001), NEOB–3019, Office of Management and Budget, Washington, DC 20503.

Comments can also be submitted by telephone at (202) 395–3084.

The NRC Clearance Officer is Brenda Jo. Shelton, (301) 492–8132. Dated at Bethesda, Maryland, this 9th day of August 1991.

For the Nuclear Regulatory Commission.

Gerald F. Cranford,

Designated Senior Official for Information Resources Management.

[FR Doc. 91–19750 Filed 8–16–91; 8:45 am]

BILLING CODE 7590–01–M

Advisory Committee of Nuclear Waste; Revised Notice

The 34th Advisory Committee on Nuclear Waste (ACNW) meeting scheduled to be held on August 27–29, 1991 agenda has been revised to include a closed session. This meeting was previously published in the **Federal Register** on Tuesday, August 6, 1991 (56 FR 37374).

The agenda for the subject meeting shall be as follows:

Tuesday, August 27, 1991—7 p.m. until 9 p.m.

(1) Begin deliberations on what technical and scientific questions are necessary to make a determination that adequate technology is available to safety store high-level radioactive wastes (spent fuel) resulting from nuclear power plant operations on an interim basis for the next 50 years.

Wednesday, August 28, 1991—8:30 a.m. until 6:30 p.m.

(1) DOE to present a summary and discussion of the DOE responses to comments by EPA, NRC and State of Nevada on Yucca Mountain Site Characterization Plan.

(2) Presentation by the NMSS High Level Waste staff on the results of the review of DOE's responses to the NRC staff's Site Characterization Analysis.

(3) Presentation on the proactive program for High Level Waste. This involves planned rulemakings, guidelines, and technical positions in support of the High Level Waste program.

(4) Prepare the next Program Plan for ACNW activities over the next four months.

Thursday, August 29, 1991—8:30 a.m. until 5 p.m.

(1) State of Nevada to present a summary and discussion of the State's review and comments on DOE's Site Characterization Plan and related Study Plans.

(2) Discuss the proposed OGE rule on ethical conduct of employees of the Executive Branch and the impact it will have on the personal and professional (non-government) activities of Committee members as well as its impact on the functioning of the Committee. Portions of this session will be closed as necessary to discuss information the release of which would represent a clearly unwarranted invasion of personal privacy.

(2) Review the NRC staff's current position on the Working Draft #3 of the U.S. Environmental Protection Agency's High-Level Waste Disposal Standards, and a revised NRC staff paper on their approach for dealing with uncertainties in implementing the EPA high-level waste standards.

(4) Review the staff's response to the ACNW's May 30, 1991, report on alternative approach to the probabilistic section of the containment requirements in 40 CFR part 191 ("The Three-Bucket Approach").

(5) Discuss Committee activities, future meeting agenda, administrative, and organizational matters, as appropriate. Also, discuss matters and specific issues that were not completed during previous meetings as time and availability of information permit.

I have determined in accordance with subsection 10(d) (Public Law 92–463 that it is necessary to close the portion of this meeting noted above to discuss information the release of which would represent a clearly unwarranted invasion of personal privacy per 5 U.S.C. 552b(c)(6).

Procedures for the conduct of and participation in ACNW meetings were published in the **Federal Register** on June 6, 1988 (53 FR 20699). In accordance with these procedures, oral or written statements may be presented by members of the public, recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Committee, its consultants, and staff. The office of the ACRS is providing staff support for the ACNW. Persons desiring to make oral statements should notify the Executive Director of the office of the ACRS as far in advance as practical so that appropriate arrangements can be made to allow the necessary time during the meeting for such statements. Use of still, motion picture, and television cameras during this meeting may be limited to selected portions of the meeting as determined by the ACNW Chairman. Information regarding the time to be set aside for this purpose may be obtained by a prepaid telephone call to the Executive Director of the office of the

ACRS, Mr. Raymond F. Fraley (telephone 301/492–4516), prior to the meeting. In view of the possibility that the schedule for ACNW meetings may be adjusted by the Chairman as necessary to facilitate the conduct of the meeting, persons planning to attend should check with the ACRS Executive Director or call the recording (301/492–4600) for the current schedule if such rescheduling would result in major inconvenience.

Dated: August 13, 1991.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 91–19753 Filed 8–16–91; 8:45 am]

BILLING CODE 7590–01–M

[Docket Nos. 50–424 and 50–425]

Georgia Power Co., et al.; Notice of Consideration of Issuance of Amendments to Facility Operating License, Proposed No Significant Hazards Consideration Determination, and Opportunity for Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of amendments to Facility Operating License Nos. NPF–68 and NPF–81 issued to Georgia Power Company, et al. (the licensee) for operation of the Vogtle Electric Generating Plant, Units 1 and 2, located in Burke County, Georgia.

The proposed amendments would change Technical Specifications (TSs) associated with reactor coolant system (RCS) flow measurement and its associated uncertainty. The changes would decrease the flow measurement uncertainty to be applied to the RCS flow surveillance, lower the RCS flow limit, increase the power level at which the flow is determined by precision heat balance, and supplement the corresponding TS Bases. Specifically:

1. TS 4.2.5.3 presently requires that RCS flow be determined by precision heat balance prior to operation above 75% rated thermal power (RTP). The proposed change would replace the phrase "prior to operation above 75% RTP" with the phrase "within 7 days after exceeding 90% RTP (Unit 1) or prior to operation above 75% RTP (Unit 2)."

2. TS 3.2.5 presently requires that RCS flow be maintained within a limit of no less than 396,198 gpm, and contains a footnote stating that this flow limit includes a 3.5% flow measurement uncertainty. The flow uncertainty in the footnote would be changed from "3.5%" to "2.7% (Unit 1) or 3.5% (Unit 2)." The associated flow limit would be changed from "396,198 gpm" to "393,000 gpm (Unit 1) or 396,198 gpm (Unit 2)."

3. The above described changes would become effective with the initial use of VANTAGE–5 fuel on Vogtle Unit 1 Cycle 4. With the initial use of VANTAGE–5 fuel on Unit 2 Cycle 3, the phrases "(Unit 1) or prior to operation above 75% RTP (Unit 2)" and "(Unit 1) or 396,198 (Unit 2)" would be deleted.

4. TS Bases 3/4.2.5 would be supplemented to describe the bases for the uncertainty used for the measurement of RCS flow. This supplement would state: "The measurement uncertainty for the RCS total flow is based upon performing a precision heat balance flow measurement above 90% RTP and using the results to correlate the flow indication channels with the measured flow. If a precision heat balance flow measurement is performed below 90% RTP, the effect on the measurement uncertainty shall be taken into account. Potential fouling of the feedwater venturis which might not be detected could bias the results from the precision heat balance in a non-conservative manner. Therefore, a penalty of 0.1% for undetected feedwater venturi fouling is included in the measurement uncertainly. Any fouling which might bias the RCS flow rate measurement by more than 0.1% may be detected by monitoring and trending various plant performance parameters. If detected, action shall be taken before performing subsequent precision heat balance flow measurements, i.e., either the effect of the fouling shall be quantified and accounted for in the RCS flow rate measurement, or the affected venturis shall be cleaned to eliminate the fouling. The indicated RCS flow value of 393,000 gpm corresponds to an analytical value of 382,800 gpm with allowance for measurement and indication uncertainties."

In a previous **Federal Register** notice dated May 1, 1991 (56 FR 20037), the NRC discussed the licensee's plans to convert to VANTAGE–5 fuel, starting with the Unit 1 Cycle 4 reload in September 1991. That notice also discussed associated changes in DNB parameters, including RCS flow, and the treatment of flow uncertainties using newer methodologies such as the Westinghouse Revised Thermal Design Procedure (RTDP). Similarly, in a previous notice dated May 28, 1991 (56 FR 24101), and repeated June 26, 1991 (56 FR 29284), the NRC discussed planned modifications to eliminate the bypass manifold used to measure RCS delta temperature and substitute fast-response resistance temperature detectors (RTDs) in thermowells directly in the hot and cold legs of the RCS loops. Changes for the conversion to VANTAGE–5 fuel and elimination of the bypass manifold are based upon flow that is determined using the Westinghouse RTDP. Accordingly, the latest proposed amendments supplement these prior notices with respect to the determination of RCS flow and its associated uncertainties.

Before issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

The Commission has made a proposed determination that the amendment request involves no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. As required by 10 CFR 50.91(a), the license has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. The revised RCS flow uncertainty basis does not involve a significant increase in the probability or consequences of an accident previously evaluated. The reactor coolant flow will continue to be monitored once per 12 hours in accordance with TS 4.2.5.1. Although the revised uncertainty results in the requirement for higher flow value to be measured, no new performance requirements are being imposed on the RCS in order to satisfy this criteria. The revised RCS flow requirement of 393,000 gpm remains smaller than the 396,198 gpm value required with a 3.5% uncertainty, for which previous RCS flow surveillances were routinely satisfied. This indicated that the RCS configuration is capable of providing the required flow. In addition, no new requirements must be considered by the safety analyses which model RCS flow since the design flow value of 382,800 gpm used as a basis for the VANTAGE–5 and RTD bypass loop elimination programs remains unchanged. Reactor coolant system flow is an assumed initial condition in the safety analyses and does not act as an initiator for any transient. Therefore, the probability of occurrence of an accident is not affected.

The consequences of an accident previously evaluated are not significantly increased due to the revised RCS flow uncertainty basis. Given that the accident analyses are unaffected, no additional fuel failures or mass releases will result. Therefore, no more severe conditions than those already assumed in the radiological dose consequence analysis will result, and

the conclusions pertaining to the VANTAGE–5 program remain bounding.

2. The revised RCS flow uncertainty basis does not create the possibility of a new or different kind of accident from any accident previously evaluated. The RCS flow uncertainty does not affect the design value for RCS flow used in the safety analyses. The change in the power level requirement for performing the RCS flow measurement by heat balance after each fuel loading is not significant since RCS flow will continue to be monitored once per 12 hours in accordance with TS 4.2.5.1. Reactor coolant system flow is an initial condition assumed in the safety analyses. A change in the basis for the uncertainty associated with measuring this flow does not introduce any new failure scenarios that must be considered. The types of accidents analyzed for the VANTAGE–5 and RTD bypass loop elimination programs already represent the credible scenarios that must be considered in order to demonstrate plant safety.

3. The revised RCS flow uncertainly basis does not involve a significant reduction in a margin of safety. Although the uncertainty is being reduced from the initial 3.5% value, this is being done based on an uncertainty review, which includes VEGP-specific calibration procedure and equipment considerations, using the RTDP methodology. The 2.7% value for flow uncertainty to be included in the footnote to TS 3.2.5. c provides a value which accounts for an appropriate margin of safety. Accident analyses performed at a more conservative lower flow value (without the uncertainty) acceptable results in all cases. Raising the power level at which the precision heat balance is performed reduces the uncertainty associated with RCS flow measurement, which maintains the appropriate margin of safety for this calculation. This change does not introduce a significant reduction in the margin of safety because the RCS flow will continue to be monitored once per 12 hours in accordance with TS 4.2.5.1. Therefore, the revised RCS flow uncertainty basis does not introduce a significant reduction in any margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

The Commission is seeking public comments on this proposed determination. Any comments received within thirty (30) days after the date of publication of this notice will be considered in making any final determination. The Commission will not normally make a final determination unless it receives a request for a hearing.

Written comments may be submitted by mail to the Regulatory Publications Branch, Division of Freedom of Information and Publications Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and should cite the publication date and page number of this **Federal Register** notice. Written comments may also be delivered to room P–223, Phillips Building, 7920 Norfolk Avenue, Bethesda, Maryland, from 7:30 a.m. to 4:15 p.m. Copies of written comments received may be examined at the NRC Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC 20555. The filing of requests for hearing and petitions for leave to intervene is discussed below.

By September 18, 1991, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to intervene. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR part 2. Interested persons should consult a current copy of 10 CFR 2.714 which is available at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC 20555 and at the local public document room located at Burke County Public Library, 412 Fourth Street, Waynesboro, Georgia 30830. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the bases of the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. Petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment request involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

Normally, the Commission will not issue the amendment until the expiration of the 30-day notice period. However, should circumstances change during the notice period such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 30-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received. Should the Commission take this action, it will publish in the **Federal Register** a notice of issuance and provide for opportunity for a hearing after issuance. The Commission expects that the need to take this action will occur very infrequently.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Services Branch, or may be delivered to the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC 20555, by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at 1–(800) 325–6000 (in Missouri 1–(800) 342–6700). The Western Union operator should be given Datagram Identification Number 3737 and the following message addressed to David B. Matthews: petitioner's name and telephone number, date petition was mailed, plant name, and publication date and page number of this **Federal Register** notice. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and to Mr. Arthur H. Domby, Troutman, Sanders, Lockerman and Ashmore, Candler Building, suite 1400, 127 Peachtree Street, NE., Atlanta, Georgia 30043 attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the Atomic Safety and Licensing Board that the petition and/or request should be granted based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)–(v) and 2.714(d).

For further details with respect to this action, see the application for amendment dated August 8, 1991, which is available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 I Street, NW., Washington, DC 20555 and at the local public document room located at Burke County Public Library, 412 Fourth Street, Waynesboro, Georgia 30830.

Dated at Rockville, Maryland, this 13th day of August 1991.

For the Nuclear Regulatory Commission.

Darl S. Hood,

Project Manager, Project Directorate II–3, Division of Reactor Projects—I/II, Office of Nuclear Reactor Regulation.

[FR Doc. 91–19749 Filed 8–16–91; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 70–143]

Nuclear Fuel Services, Inc. Erwin, TN; Finding of No Significant Impact and Notice of Opportunity for a Hearing Renewal of Special Nuclear Material License No. SNM–124

The U.S. Nuclear Regulatory Commission (the Commission) is considering the renewal of Special Nuclear Material License No. SNM–124 for the continued operation of Nuclear Fuel Services, Inc. (NFS) located in Erwin, Tennessee.

Summary of the Environmental Assessment

Identification of the Proposed Action

The proposed action is the renewal of the license necessary for NFS to continue operations. Principal operations include the processing of high-enriched UF_6 (> 90 percent U–235) into a classified fuel product and processing scrap materials to recover uranium. In addition, NFS develops other nuclear fuels containing enriched uranium and operates a facility for washing used low-enriched UF_6 cylinders from other licensees. A variety of radiological and nonradiological gaseous, liquid, and solid wastes are generated. After treatment, some of the wastes are released to the environment.

The Need for the Proposed Action

The NFS plant produces nuclear reactor fuel for the U.S. Naval Reactor Program. The demand for fuel will remain to meet the needs of the U.S. Naval Reactor Program. Denial of the license renewal for the NFS Erwin Plant is an alternative available to the NRC but would require that similar activities be undertaken at another site.

Environmental Impacts of the Proposed Action

The main plant ventilation system collects air from most high-enriched uranium operations. Gaseous streams from individual process facilities are routed to this system through additional high-efficiency particulate air (HEPA) filters and scrubbers when necessary. Packed-bed scrubbers using scrubber solutions of potassium hydroxide, aluminum nitrate, or ammonium hydroxide are used in several buildings for treating air prior to discharge. After treatment, the gaseous effluents within the main plant ventilation system are discharged through a common stack. Approximately 90 percent of the plant's radioactive stack effluents are discharged through the main plant stack; the remaining gaseous effluents are released through short stacks or roof vents. The bulk of the aqueous process waste is piped to the Waste Water Treatment Facility. The liquid is treated on a batch basis and discharged to the Nolichucky River via a direct pipeline. Organic wash water, Process Development Laboratory waste water, and restroom and shower output are discharged to the sewer system which goes directly to the City of Erwin-Publicly Owned Treatment Works.

NFS conducts a comprehensive effluent and environmental monitoring program to demonstrate compliance with appropriate environmental protection standards and to provide, where possible, site-specific data to assist in the prediction of environmental impacts. The NFS program includes sampling the liquid and gaseous discharges, ambient air stations, surface water, soil, sediment, vegetation, and ground water.

Radiological impacts of the plant were assessed using the radioactive effluent data for 1984. Data for 1984 was used because this is the year with the highest release since a major ventilation upgrade. Based on data from a monitoring station located in the vicinity of the nearest residence, 62 percent of the uranium was class Y lung solubility, and 38 percent was class D. The main process stack accounted for 89 percent of the airborne release, and 11 percent was released from building vents. The doses from airborne emissions were calculated for the nearest actual residence (250 m south of the plant). The atmospheric dispersion factors at this location are 2.5 E–4 s/m^3 for ground level release and less than 8.3 E–8 s/m^3 for the stack release. It was assumed that the individual spends 80 percent of the time at the residence location and

that 10 percent of the food consumed is produced there. Doses are 50-year dose commitments (total dose to a reference organ, resulting from 1 year of intake, that will accrue during a 50-year period). The highest dose received from airborne effluents would be 10 mrems/year to the lungs. Doses to the total-body, kidneys, and bone are 2.2, 0.22, and 1.2 mrems/y, respectively. This dose is below the 25 mrem/y limit imposed by the NRC license (which is consistent with the criteria in 40 CFR 190 and 40 CFR 61). Maximum individual doses to the nearest resident from airborne and liquid effluents are 2.3 mrem/yr for the total body dose, 10 mrem to the lungs, and 2.8 mrem to the bone. Normal operation of the plant has resulted in maximum annual doses at the nearest residence that are below the limit of 25 mrem/y.

For the population dose due to airborne releases, the highest collective dose was to the lungs (80 person-rem). The total-body dose of 14.5 person-rem may be compared to a dose of 1.3 E+5 person-rem which the population would receive from annual background radiation. The population doses from liquid effluents were estimated for the town of Jonesboro, which draws its drinking water from the Nolichucky River. These doses were 0.1 and 3.2 person-rem for total body and bone, respectively. Calculations were based on the conservative assumption that uranium concentrations in the river at Jonesboro are the same as those measured downstream from NFS.

Conclusion

The staff concludes that the environmental impacts associated with the proposed license renewal for continued operation of NFS are expected to be insignificant. To evaluate future impacts, NFS will continue the environmental monitoring program. The staff concludes that there will be no significant impacts associated with the proposed action. The staff does recommend, however, that NFS: (1) Establish a routine ground water monitoring program for the two burial grounds and submit the program for NRC approval; (2) establish an effective monitoring system for leakage detection for the underground storage tanks and submit the plan for NRC approval; (3) determine if there are residents within 1600 m (1 mile) of the site in the northwest quadrant, and if so, place an ambient monitoring station at the nearest residence in that area to collect continuous air samples for environmental air sample analysis; and (4) inform the NRC within 30 days if the State-permitting agency revokes, supersedes, conditions, modifies, or otherwise nullifies the effectiveness of the State-issued NPDES permit for the discharge of liquid effluents.

Alternatives to the Proposed Action

Alternatives to the proposed action include complete denial of NFS's renewal application. Not granting a license renewal for the facility would cause NFS to cease fuel processing at this site. This alternative has not been considered because issues of public health and safety have been resolved. The only benefits to be gained by nonrenewal would be the cessation of the minor environmental impacts from operation of the NFS site. Because the nuclear fuel is a necessary product for the U.S. Naval Reactor Program, denial of a license for NFS would result in the transfer of the fuel production and associated environmental impacts to an alternative site.

Agencies and Persons Consulted

Staff utilized the environmental report dated July 1984; the revised applications dated August 11, 1989, October 15, 1990, and May 15, 1991; and additional information dated November 20, 1984, February 8, and April 1, 1985, February 19, 1986, June 2, and November 17, 1989, January 19, October 15, and December 28, 1990, and May 15, 1991. Discussions were held with the Tennessee Department of Health and Environment.

Finding of No Significant Impact

The Commission has prepared an Environmental Assessment related to the renewal of Special Nuclear Material License No. SNM–124. On the basis of this assessment, the Commission has concluded that environmental impacts that would be created by the proposed licensing action would not be significant and do not warrant the preparation of an Environmental Impact Statement. Accordingly, it has been determined that a Finding of No Significant Impact is appropriate.

The Environmental Assessment and the above documents related to this proposed action are available for public inspection and copying at the Commission's Public Document Room at the Gelman Building, 2120 L Street NW., Washington, DC.

Opportunity for a Hearing

Any person whose interest may be affected by the issuance of this amendment may file a request for a hearing. Any request for a hearing must be filed with the Office of the Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555, on or before September 18, 1991; be served on the NRC staff (Executive Director for Operations, One White Flint North, 11555 Rockville Pike, Rockville, MD 20852); on the licensee (Nuclear Fuel Services, Inc., P.O. Box 337, MS123, Erwin, TN 37650) and must comply with the requirements for requesting a hearing set forth in the Commission's regulation, 10 CFR part 2, subpart L, "Informal Hearing Procedures for Adjudications in Materials Licensing Proceedings."

These requirements, which the requestor must describe in detail, are:

1. The interest of the requester in the proceeding;

2. How that interest may be affected by the results of the proceeding, including the reasons why the requester should be permitted a hearing;

3. The requestor's areas of concern about the licensing activity that is the subject matter of the proceeding; and

4. The circumstances establishing that the request of hearing is timely, that is, filed within 30 days of the date of this notice.

In addressing how the requestor's interest may be affected by the proceeding, the request should describe the nature of the requestor's right under the Atomic Energy Act of 1954, as amended, to be made a party to the proceeding; the nature and extent of the requestor's property, financial, or other (i.e., health, safety) interest in the proceeding; and the possible effect of any order that may be entered in the proceeding upon the requestor's interest.

Dated at Rockville, Maryland, this 9th day of August, 1991.

For the Nuclear Regulatory Commission.

Charles J. Haughney,

Chief, Fuel Cycle Safety Branch, Division of Industrial and Medical Nuclear Safety, NMSS.

[FR Doc. 91–19752 Filed 8–16–91; 8:45 am]

BILLING CODE 7590–01–M

[Docket Nos. 50–387 and 50–388]

Pennsylvania Power and Light Co. and Allegheny Electric Cooperative, Inc.; Withdrawal of Application for Amendment to Facility Operating License

The United States Nuclear Regulatory Commission (the Commission) has granted the request of Pennsylvania Power and Light Company and Allegheny Electric Cooperative, Inc. (the licensees) to withdraw its January 14, 1991, application for proposed amendments to Facility Operating License Nos. NPF–14 and NPF–22 for the Susquehanna Steam Electric Station,

Units 1 and 2, located in Berwick, Pennsylvania.

The proposed amendments would have revised the Susquehanna Steam Electric Station technical specifications, to incorporate the addition of isolation signals for Containment Isolation Valves for CRM Panel and Wetwell Panel Sample Lines for Units 1 and 2.

The Commission has previously issued a Notice of Consideration of Issuance of Amendment published in the Federal Register on April 3, 1991 (56 FR 13667). However, by letter dated August 1, 1991, the licensee withdrew the proposed changes.

For further details with respect to this action, see the application for amendments dated January 14, 1991, and the licensee's letter dated August 1, 1991, which withdrew the application for these license amendments. The above documents are available for public inspection at the Commission's Public Document Room, 2120 L Street, NW., Washington, DC, and the Osterhout Free Library, Reference Department, 71 South Franklin Street, Wilkes-Barre, Pennsylvania.

Dated at Rockville, Maryland this 9th day of August 1991.

For the Nuclear Regulatory Commission.

James J. Raleigh,

Project Manager, Project Directorate I–2, Division of Reactor Projects—II, Office of Nuclear Reactor Regulation.

[FR Doc. 91–19751 Filed 8–16–91; 8:45 am]

BILLING CODE 7590–01–M

OFFICE OF MANAGEMENT AND BUDGET

Office of Federal Procurement Policy

Cost Accounting Standards Board; Cost Accounting Standard 412, Cost Accounting Standard for Composition and Measurement of Pension Cost, and Cost Accounting Standard 413, Adjustment and Allocation of Pension Cost

ACTION: Notice.

SUMMARY: the Office of Federal Procurement Policy, Cost Accounting Standards Board (CASB), invites public comments concerning a Staff Discussion Paper on the topic of accounting for the pricing of fully-funded defined benefit pension plan costs in Government contracts.

DATES: Requests for copies of the Staff Discussion Paper, and any comments upon its contents, should be received by October 18, 1991.

ADDRESSES: Requests for a copy of the Staff Discussion Paper or comments upon its contents should be addressed for Mr. Robert Lynch, Project Director, Cost Accounting Standards Board, Office of Federal Procurement Policy, 725 17th Street, NW., room 9001, Washington, DC 20503. Attn: CASB Docket No. 91–05.

FOR FURTHER INFORMATION CONTACT: Robert Lynch, Project Director, Cost Accounting Standards Board (telephone: 202–395–3254).

SUPPLEMENTARY INFORMATION: The Office of Federal Procurement Policy, Cost Accounting Standards Board, is releasing a Staff Discussion Paper which outlines various considerations respecting the measurement and assignment of the costs of defined benefit pension plans, to Government contracts, in situations in which plan funding has been subject to certain limitations prescribed in the Internal Revenue Code under the Omnibus Budget Reconciliation Act of 1987, Public Law 100–203, 101 Stat. 1330–1331, see 26 U.S.C. 412(c)(7), as well as the 1986 Tax Reform Act, Public Law 99–514, 100 Stat. 2085.

Section 26(g)(1) of the Office of Federal Procurement Policy Act, 41 U.S.C. 422(g)(1), requires that the Board, prior to the promulgation of any new or revised Cost Accounting Standard, consult with interested persons concerning the advantages, disadvantages and improvements anticipated in the pricing and administration of Government contracts as a result of the adoption of a proposed Standard. The CASB's solicitation of recommendations for agenda items, 55 FR 48714 (11/21/90), revealed considerable sentiment for improvement and clarification of the cost accounting rules to be applied when defined benefit pension plans are subject to the maximum funding limitations contained in the Internal Revenue Code, *supra*. There appears to be considerable contention concerning varying interpretations of Cost Accounting Standards (CAS) 412 and 413 in light of these relatively recent Tax Code changes, as well as the efficacy of these Standards for the appropriate pricing of Government contracts, and the role of funding in the assignment of pension costs, as well as the compatibility of the CAS and contract cost principle (allowability) rules. The Staff Discussion Paper is meant to give effect to the concerns of both industry and the Government.

The purpose of the Staff Discussion Paper is to solicit public views with respect to the Board's consideration of the topic of accounting for fully funded defined benefit pension plans. It reflects research accomplished to date by the staff in the respective subject areas, and as such has not been formally approved by the Board.

Dated: August 12, 1991.

Allan V. Burman,

Administrator for Federal Procurement Policy and Chairman, Cost Accounting Standards Board.

[FR Doc. 91–19553 Filed 8–16–91; 8:45am]

BILLING CODE 3110–01–M

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Intergovernmental Policy Advisory Committee; Meeting

AGENCY: Office of the United States Trade Representative.

SUBJECT: Intergovernmental Policy Advisory Committee.

ACTION: Notice of meeting and determination of closing of meeting.

SUMMARY: The meeting of the Intergovernmental Policy Advisory Committee (IGPAC) is to be held Tuesday, August 20, 1991 from 2:15 p.m. to 5:30 p.m. in Seattle, Washington at the Columbia Tower Club. The meeting will include a review and discussion of current issues which influence U.S. trade policy. Pursuant to section 2155(f)(2) of title 19 of the United States Code, I have determined that this meeting will be concerned with matters the disclosure of which would seriously compromise the Government's negotiating objectives or bargaining positions.

ADDRESSES: 7600 Columbia SeaFirst Center, 701 Fifth Avenue, Seattle, Washington 98104.

FOR FURTHER INFORMATION CONTACT: Mollie Van Heuven, Director, Office of Private Sector Liaison, Office of the United States Trade Representative, Executive Office of the President.

Carla A. Hills,

United States Trade Representative.

[FR Doc. 91–19850 Filed 8–16–91; 8:45 am]

BILLING CODE 3190–01–M

Negotiation of a North American Free Trade Agreement (NAFTA)

AGENCY: Office of the U.S. Trade Representative.

ACTION: Trade Policy Staff Committee (TPSC) Public Hearings: Notification of locations and times.

SUMMARY: A Notice was published in the Federal Register on July 16, 1991 (Vol. 56, No. 136, page 32454) announcing TPSC public hearings to be

held in San Diego, CA; Houston, TX; Atlanta, GA; Washington, DC; Cleveland, OH; and Boston, MA. That notice invited oral testimony and/or written comments of interested parties on the desirability, the scope, and the economic effects of a North American Free Trade Agreement (NAFTA). A subsequent Notice was published in the **Federal Register** on August 13, 1991 (Vol. 56, No. 156, page 40218) announcing the specific times and locations for all hearings except Cleveland, Ohio. This notice announces the specific time and location of the hearing in Cleveland, Ohio.

FOR FURTHER INFORMATION CONTACT: For procedural questions concerning public comments and/or public hearings contact Carolyn Frank, Secretary, Trade Policy Staff Committee, Office of the United States Trade Representative, (202) 395–7210. All other questions concerning the negotiations should be directed to Robert Fisher, Director of Mexican Affairs, Office of North American Affairs, Office of the United States Trade Representative, (202–395–3412).

SUPPLEMENTARY INFORMATION: All hearings will begin at 9:30 a.m. Following receipt of requests to testify, witnesses will be notified directly of their scheduled date and time to appear. The exact location of the Cleveland, Ohio hearing on September 9 is as follows: Anthony J. Celebrezze Federal Building, 31st Floor Auditorium, 1240 East Ninth St., Cleveland, OH.

All deadlines remain the same as stated in the previous notice.

David A. Weiss,

Chairman, Trade Policy Staff Committee.

[FR Doc. 91–19765 Filed 8–16–91; 8:45 am]

BILLING CODE 3190–01–M

SECURITIES AND EXCHANGE COMMISSION

Self-Regulatory Organizations; Applications for Unlisted Trading Privileges and of Opportunity for Hearing; Midwest Stock Exchange, Inc.

August 13, 1991.

The above named national securities exchange has filed applications with the Securities and Exchange Commission ("Commission") pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and rule 12f–1 thereunder for unlisted trading privileges in the following security:

MGIC Investment Corporation
Common Stock, $1.00 Par Value (File No. 7–7146).

This security is listed and registered on one or more other national securities exchange and is reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before September 3, 1991, written data, views and arguments concerning the above-referenced application. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Following this opportunity for hearing, the Commission will approve the application if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such application is consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 91–19684 Filed 8–16–91; 8:45 am]

BILLING CODE 8010–01–M

Self-Regulatory Organizations; Applications for Unlisted Trading Privileges and of Opportunity for Hearing; Philadelphia Stock Exchange, Inc.

August 13, 1991.

The above named national securities exchange has filed applications with the Securities and Exchange Commission ("Commission") pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and rule 12f–1 thereunder for unlisted trading privileges in the following securities:

Standard Commercial Corporation
Common Stock, $0.20 Par Value (File No. 7–7147).

Superior Industries International
Common Stock, $0.50 Par Value (File No. 7–7184).

These securities are listed and registered on one or more other national securities exchange and are reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before September 3, 1991, written data, views and arguments concerning the above-referenced application. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, 450 5th Street, NW., Washington DC 20549. Following this opportunity for hearing, the Commission will approve the application if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such applications are consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 91–19685 Filed 8–16–91; 8:45 am]

BILLING CODE 8010–01–M

[Rel. No. IC–18269; 812–7262]

IDS Mutual, Inc., et al.; Application

August 12, 1991.

AGENCY: Securities and Exchange Commission (SEC).

ACTION: Notice of Application for Amended Order of Exemption Under the Investment Company Act of 1940 (the Act).

APPLICANTS: IDS Mutual, Inc., IDS Stock Fund, Inc., IDS Selective Fund, Inc., IDS Equity Plus Fund, Inc., IDS New Dimensions Fund, Inc., IDS Progressive Fund, Inc., IDS Growth Fund, Inc., IDS Bond Fund, Inc., IDS Cash Management Fund, Inc., IDS Tax-Exempt Bond Fund, Inc., IDS High Yield Tax-Exempt Fund, Inc., IDS Tax-Free Money Fund, Inc., IDS Discovery Fund, Inc., IDS Extra Income Fund, Inc., IDS Strategy Fund, Inc., IDS International Fund, Inc., IDS Precious Metals Fund, Inc., IDS Managed Retirement Fund, Inc., IDS Federal Income Fund, Inc., IDS Utilities Income Fund, Inc., IDS Global Series, Inc., IDS Market Advantage Series, Inc., IDS Special Tax-Exempt Series Trust, IDS California Tax-Exempt Trust, IDS Life Capital Resource Fund, Inc., IDS Life Special Income Fund, Inc., IDS Life Moneyshare Fund, Inc. and IDS Managed Fund, Inc. (the Funds), and Shearson Lehman Brothers Inc. (Shearson).

RELEVANT 1940 ACT SECTION: Amended order requested under sections 6(c), 17(b), and 17(d) of the Act and rule 17d–1 thereunder.

SUMMARY OF APPLICATION: Applicants seek to amend an outstanding order to permit the Funds to lend their portfolio securities to Shearson, an affiliate of the Funds' investment advisers, at rates no lower than those set forth on a schedule that is uniformly applied to all borrowers of the Funds' securities and

which schedule is established and periodically revised by the Executive Committees of the Funds' Boards of Directors and ratified by the Boards, including a majority of the directors who are not interested persons of the Funds' investment advisers.

FILING DATE: The application was filed on March 3, 1989 and amended on October 2, 1989, July 19, 1990, and May 8, 1991.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving Applicants with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on September 6, 1991, and should be accompanied by proof of service on Applicants, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 5th Street, NW., Washington, DC 20549. Applicants, IDS Tower 10, Minneapolis, MN 55440.

FOR FURTHER INFORMATION CONTACT: Eva Marie Carney, Senior Attorney, at (202) 504–2274, or Max Berueffy, Branch Chief, at (202) 272–3016 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the SEC's Public Reference Branch.

Applicants' Representations

1. Each Fund is registered under the Act as an open-end management investment company and is a member of the IDS Mutual Fund Group. The investment adviser of each Fund is IDS Financial Corporation or a wholly-owned subsidiary, IDS Life Insurance Company (both referred to here as IDS). Shearson is a broker-dealer registered under the Securities Exchange Act of 1934.

2. American Express Company owns all of the outstanding stock of IDS and all of the outstanding common stock of Shearson Lehman Brothers Holdings Inc., of which Shearson is a wholly-owned subsidiary.

3. On June 19, 1986, the SEC granted a conditional order exempting Applicants from section 17(a)(3) of the Act and permitting the lending of the Funds' securities to affiliate Shearson under section 17(d) of the Act and Rule 17d–1 thereunder (the Outstanding Order). Investment Company Act Release Nos. 15109 (May 29, 1986) (notice) and 15160 (June 19, 1986) (order).

4. When a Fund lends its securities, generally it receives cash or United States Government Securities as collateral and is compensated either by the retention of all or part of the interest earned on cash collateral or by the borrower paying a premium to the Fund if the collateral is United States Government Securities. The Fund retains the right to all distributions made to the borrower of the loaned securities, the record dates for which are during the loan term, including cash dividends, stock dividends, interest payments, stock splits, and rights to purchase additional securities.

5. The Outstanding Order requires that the Funds receive either cash or United States Government Securities as collateral for securities loaned to an affiliated broker. Condition 4 provides that, if a Fund accepts cash as collateral for a loan of securities to Shearson, the Fund may not remit to Shearson a portion of the interest earned on the cash (in effect, reduce the rate of return they earn on the cash collateral), in excess of 85% of the weekly average of the 30-day commercial paper rate. Condition 4 also specifies that if a Fund accepts United States Government Securities as collateral for a loan to Shearson, Shearson must pay a premium of at least ½% of the par value on debt instruments or the market value assigned to equities at the time of borrowing. Applicants request that Condition 4 be amended to permit the Funds to lend their securities to Shearson at rates no lower than those set forth in a schedule of rates established and periodically revised by the Executive Committees of the Funds' Boards of Directors, and ratified by the full Boards, including a majority of directors who are not interested persons of IDS (the Schedule of Rates).

6. If the requested relief is granted, Applicants will continue to be subject to all other conditions to the Outstanding Order, including those which require the Funds to accept only cash or United States Government Securities as collateral, to conduct, in the aggregate, no more than 50% of their portfolio lending business with affiliated borrowers, and to lend no more than 10% of the Funds' assets, computed at market and as of the time a loan is made, to Shearson. The Funds' Boards of Directors also will continue to be required to review, on a quarterly basis, (a) the fairness of the terms of each loan to an affiliated borrower, and (b) the Funds' securities lending program to ensure its compliance with the conditions to the Commission's exemptive order and with the procedures that have been adopted by the Boards; and to review, no less frequently than annually, these conditions and procedures for their continuing appropriateness. Each of these requirements has been incorporated in a resolution of the Funds' Boards of Directors that sets forth portfolio securities lending guidelines.

7. The Schedule of Rates will set the lowest rate that may be charged on a loan of securities to any borrower. If a security is loaned to an unaffiliated broker at a rate higher than the minimum set forth in the Schedule, all comparable loans to Shearson will be made at no less than that higher rate. Further, the securities lending program will be monitored on a daily basis by an officer of the Funds who is not an interested person of IDS, the Funds' investment adviser (*i.e.*, the officer will be employed by the Funds only and not by the investment advisers). The officer will review the terms of each loan for comparability with loans to unaffiliated borrowers and consistency with the Schedule of Rates, and will periodically report his or her findings to the Boards' Executive Committees. The Schedule of Rates may be amended from time to time in light of specified market-related criteria, including the cost to make a loan, the reasons brokers borrow securities from the Funds, the average amount earned on each loan, the anticipated length of time a loan will be outstanding, the size of a loan, and the possibility that money may be lost on a loan transaction.

8. Applicants state that the request to amend the rate-specifying condition to the Outstanding Order is based on the need to meet the competition that has arisen in the last five years because of the number of new institutions that now lend their securities. According to Applicants, this competition has lowered the rates lenders charge brokers to borrow securities. To determine how best to meet the competition, the Boards of the Funds, on a test basis, directed the use of a Schedule of Rates setting minimum rates for portfolio loans to brokers other than Shearson. The Boards concluded, on the basis of this test of rates, that the use of a Schedule of Rates provided the Funds with needed flexibility in negotiating competitive rates, that this flexibility produced additional net income for the Funds, and that use of a Schedule of

Rates for loans to Shearson will increase the Funds' business with Shearson and provide the Funds with incremental income.

9. Based on current market conditions, the Schedule of Rates currently in effect as to loans to unaffiliated borrowers requires that a Fund charge 250 basis points for loans of up to $250,000 in fund securities, 125 basis points for loans of between $250,000 and $500,000 in fund securities, 100 basis points for loans of between $500,000 and $1 million in fund securities, 25 basis points for loans of between $1 million and $4 million in fund securities, and 10 basis points for loans of $4 million and above in fund securities.

10. Applicants request that the requested relief extend to any future portfolio of a Fund or any new open-end management investment company which is part of the same group of investment companies (as defined in rule 11a–3 under the Act) as the Funds.

Applicants' Legal Analysis

1. Because of their respective relationships with American Express, IDS and Shearson are under common control and are affiliated persons of one another pursuant to section 2(a)(3) of the Act. Since IDS, the investment adviser for each Fund, is an affiliated person of the Funds, Shearson is an affiliated person of an affiliated person of each Fund. Section 17(a)(3) of the Act therefore prohibits Shearson from borrowing from the Funds. In addition, section 17(d) of the Act and rule 17d–1 thereunder, which prohibit an affiliated person of an affiliated person of a registered investment company from effecting any transaction in which the company is a joint participant absent an order of the SEC, precludes Shearson from participating in any joint enterprise with the Funds and may be viewed as precluding the Funds from lending their portfolio securities to Shearson.

2. Applicants reiterate the argument made in their 1986 application that loan terms which result from negotiation between unaffiliated persons are the best evidence upon which the Commission may base its findings, under section 17(b) of the act, that the terms of the proposed transactions are reasonable and fair and do not involve overreaching. Applicants point out that, in keeping with this principle, the proposed Schedule of Rates is derived solely from the Funds' rate negotiations with unaffiliated borrowers. Further, Applicants argue that Condition 1 to the Outstanding Order, which requires that at least 50% of the Funds' loans be made to unaffiliated borrowers and with which Applicants must continue to comply, will ensure that there continues to be an arm's-length standard against which to determine whether the terms of Funds' loans to Shearson are reasonable and fair.

3. Applicants assert that the substitution of the proposed new conditions regarding the Schedule of Rates (Conditions 4 (a) through (e)) for Condition 4 to the Outstanding Order will ensure that the standards of section 17(d) of the Act and rule 17d–1 thereunder will be met, *i.e.*, that loan rates will be no more favorable to Shearson than rates applicable to loans to unaffiliated borrowers. Thus, Applicants assert that the affiliate's participation in the proposed transactions is not on a basis different from or less advantageous than that of other participants.

4. Applicants emphasize that, pursuant to Condition 5 to the Outstanding Order, with which Applicants must continue to comply, the Funds' Boards of Directors will have a significant role in monitoring compliance with the Commission's amended order and the Funds' established securities lending procedures. Applicants also emphasize the responsibility placed by proposed Condition 4(e) on an officer of the Funds, who is not an interested person of IDS, the Funds' investment adviser and Shearson's affiliate, but rather an employee of the Funds. According to Applicants, that officer's daily review of each loan of Fund securities, to compare rates charged Shearson with rates charged unaffiliated brokers, will help assure the fairness of the rates charged Shearson.

Applicants' Conditions

Applicants agree that if the order is amended as requested, the amended order will continue to be subject to all conditions to the Outstanding Order except Condition 4, which will be replaced by new conditions numbered Conditions 4(a) through 4(e). Thus, the amended order will be subject to the following conditions:

1. The IDS Mutual Fund Group will continue to make at least 50% of their portfolio securities loans to unaffiliated borrowers.

2. A Fund may not lend portfolio securities to Shearson if, at the time such loan is made, more than 10% of such Fund's assets, computed at market, would be loaned to Shearson.

3. A Fund will not make any loan to Shearson unless the income attributable to such loan fully covers the transaction costs incurred in making such loan.

4(a). All loans to Shearson will be made at rates no lower than those set forth in the Schedule of Rates.

4(b). The Schedule of Rates, which may be established and modified from time to time by the Executive Committees of the Funds' Boards of Directors, will set forth compensation rates that are reasonable and fair and that are determined in light of those considerations set forth in the amended application filed with the Commission on May 9, 1991. The Schedule of Rates and any modification will be ratified by the full Boards of Directors, including a majority of the directors who do not serve on the Executive Committees and are not interested persons of the Funds' investment adviser.

4(c). The Schedule of Rates will be uniformly applied to all borrowers of the Funds' portfolio securities, and will specify the lowest rate that may be charged on a loan of securities to any borrower.

4(d). If a security is loaned to an unaffiliated borrower at a rate higher than the minimum set forth in the Schedule of Rates, all comparable loans to Shearson will be made at no less than the higher rate.

4(e). The Funds' portfolio securities lending program will be monitored on a daily basis by an officer of the Funds who is not an "interested person," as defined in section 2(a)(19) of the Act, of the Funds' investment advisers. This officer will review the terms of each loan to Shearson for comparability with loans to unaffiliated borrowers and consistency with the Schedule of Rates, and will periodically report his or her findings to the Funds' Board of Directors, or their Executive Committees.

5. The Funds' Boards of Directors, including a majority of the directors who are not interested persons (a) will determine no less frequently than quarterly that all transactions with Shearson effected during the preceding quarter were effected in compliance with the requirements of the resolution adopted by the Boards and the conditions of any order permitting such transactions and that such transactions were conducted on terms which were reasonable and fair; and (b) will review no less frequently than annually such requirements and conditions for their continuing appropriateness.

6. The IDS Mutual Fund Group will maintain and preserve permanently a written copy of the procedures (and any

modifications thereto) which are followed in lending securities. The Funds shall maintain and preserve a written record of each loan setting forth the number of shares loaned or the face amount of the securities loaned, the fee received (or the rate of interest remitted), the identity of the borrower, the terms of the loan, and the information or materials upon which the findings were made that each loan to Shearson was fair and reasonable and that the procedures followed in making the loan were in accordance with the undertakings set forth above.

7. The IDS Mutual Fund Group will only accept cash or U.S. Government Securities as collateral for securities loaned to an affiliated broker.

For the SEC, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 91-19743 Filed 8-16-91; 8:45 am]

BILLING CODE 8010-01-M

DEPARTMENT OF STATE

[Public Notice 1455]

Study Group 7 of the U.S. Organization for the International Radio Consultative Committee (CCIR); Meeting

The Department of State announces that Study Group 7 of the U.S. organization for the International Radio Consultative Committee (CCIR) will hold an open meeting September 5, 1991, at NASA Headquarters, 600 Independence Avenue SW., Washington, DC in room 521} commencing at 10 a.m.

Study Group 7 deals with matters relating to the space research systems and standard frequency and time systems. The purpose of the meeting is to develop 1991 work plans for each of the Working Parties in Study Group 7.

Members of the general public may attend the meeting and join in the discussions subject to instructions of the Chairman. Request for further information should be directed to Mr. Rodger Andrews, ARC Professional Services Group, Herndon, Virginia 22070, phone (703) 834-5600.

Dated: August 5, 1991.

Warren G. Richards,

Chairman, U.S. CCIR National Committee.

[FR Doc. 91-19688 Filed 8-16-91; 8:45 am]

BILLING CODE 4710-07-M

DEPARTMENT OF TRANSPORTATION

Aviation Proceedings; Agreements filed during the Week Ended August 9, 1991

The following Agreements were filed with the Department of Transportation under the provisions of 49 U.S.C. 412 and 414. Answers may be filed within 21 days of date of filing.

Docket Number: 47686.
Date filed: August 6, 1991.
Parties: Members of the International Air Transport Association.
Subject: TC12 Reso/P 1343 Dated June 24, 1991.
Mid Atlantic-Mideast Reso 002E: R-1.
TC12 Reso/P 1344 dated June 24, 1991
Mid Atlantic-Africa Reso 002d: R-2.
TC12 Reso/P 1345 dated June 24, 1991
Mid Atlantic-Africa Resos: R-3 to R-10.
TC12 Reso/P 1346 dated June 24, 1991
Mid Atlantic-Europe/Mideast Resos: R-11 to R-53.
Proposed Effective Date: October 1, 1991.

Docket Number: 47689.
Date filed: August 7, 1991.
Parties: Members of the International Air Transport Association.
Subject: TC23 Reso/P 0461 dated July 24, 1991.
Europe-Japan/Korea Resos: R-1 To R-5.
Proposed Effective Date: September 1, 1991.

Phyllis T. Kaylor,

Chief, Documentary Service Division.

[FR Doc. 91-19767 Filed 8-16-91; 8:45 am]

BILLING CODE 4910-62-M

Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits Filed Under Subpart Q During the Week Ended August 9, 1991

The following applications for certificates of public convenience and necessity and foreign air carrier permits were filed under subpart Q of the Department of Transportation's Procedural Regulations (See 14 CFR 302.1701 et. seq.). The due date for answers, conforming application, or motion to modify scope are set forth below for each application. Following the answer period DOT may process the application by expedited procedures. Such procedures may consist of the adoption of a show-cause order, a tentative order, or in appropriate cases a final order without further proceedings.

Docket Number: 47678.
Date filed: August 5, 1991.
Due Date for Answers, Conforming Applications, or Motion to Modify Scope: August 12, 1991.
Description. Application of United Air Lines, Inc., pursuant to Order 91-7-28, and subpart Q of the the Department's Procedural Regulations, requests a designation pursuant to the U.S.-Italy Air Transport Agreement of 1970, as amended by memoranda of Understanding dated September 27, 1990, and July 3, 1991 to authorize service between Washington, DC, and the coterminal points Milan and Rome, Italy.

Docket Number: 47679.
Date filed: August 5, 1991.
Due Date for Answers, Conforming Applications, or Motion to Modify Scope: August 12, 1991.
Description. Application of Delta Air Lines, Inc., pursuant to section 401 of the Act and subpart Q of the Regulations, applies for a new or amended certificate of public convenience and necessity to permit Delta to provide Scheduled foreign air transportation of persons, property and mail between Atlanta, Georgia, on the one hand, the coterminal points, Milan and Rome, Italy, on the other hand.

Docket Number: 47680.
Date filed: August 5, 1991.
Due Date for Answers, Conforming Applications, or Motion to Modify Scope: September 12, 1991.
Description. Application of DHL Airways, Inc., pursuant to section 401 of the Act and subpart Q of the Regulations, requests a certificate of public convenience and necessity enabling it to provide nonstop all-cargo air services between the coterminal points Cincinnati and Cleveland, Ohio and the terminal point Toronto, Ontario.

Docket Number: 47682.
Date filed: August 5, 1991.
Due Date for Answers, Conforming Applications, or Motion to Modify Scope: August 12, 1991.
Description. Application of Continental Airlines, Inc., pursuant to section 401 of the Act and subpart Q of the Regulations applies for a certificate of public convenience and necessity which would authorize Continental to provide scheduled foreign air transportation of persons, property and mail between Newark, New Jersey, on the one hand, and Milan and Rome, Italy, on the other hand.

Docket Number: 47683.
Date filed: August 5, 1991.
Due Date for Answers, Conforming Applications, or Motion to Modify Scope: August 12, 1991.

Description. Application of USAir, Inc., pursuant to section 401 and subpart Q of the Regulations, to authorize USAir to provide scheduled foreign air transportation of persons, property and mail on a nonstop basis between Pittsburgh, Pennsylvania, on the one hand, and Milan/Rome, Italy, on the other hand.

Docket Number: 47684.
Date filed: August 5, 1991.
Due Date for Answers, Conforming Applications, or Motion to Modify Scope: August 12, 1991.

Description. Application of American Airlines, Inc., pursuant to section 401 of the Act and subpart Q of the Regulations, applies for a certificate of public convenience and necessity authorizing scheduled foreign air transportation of persons, property, and mail between the terminal point Dallas/Ft. Worth, Texas, and the co-terminal points Milan and Rome, Italy.

Docket Number: 47687.
Date filed: August 7, 1991.
Due Date for Answers, Conforming Applications, or Motion to Modify Scope: September 4, 1991.

Description. Application of Servicios Aereos Rutas Oriente, S.A. De C.V., pursuant to section 402 of the Act and subpart Q of the Regulations seeks authority to provide charter and scheduled air transportation of persons and accompanying baggage between points in the United States and points in Mexico and, subject to the applicable regulations of the Department of Transportation, between points in the United States and other points worldwide.

Docket Number: 47691.
Date filed: August 8, 1991.
Due Date for Answers, Conforming Applications, or Motion to Modify Scope: September 5, 1991.

Description. Application of American Airlines, Inc., pursuant to section 401 of the Act and subpart Q of the Regulations applies for amendment of its certificate of public convenience and necessity for Route 389 so as to add Montevideo, Uruguay, as an intermediate point on Segment 1.

Docket Number: 43377.
Date filed: July 30, 1991.
Due Date for Answers, Conforming Applications, or Motion to Modify Scope: August 19, 1991.

Description. Amendment No. 2 to Application of American Airlines, Inc., amends its application so as to add the Azores and Lisbon, Portugal, as intermediate points between Dallas/Ft. Worth/Miami and Spain. As amended by this Amendment No. 2, American accordingly seeks a certificate of public convenience and necessity to engage in scheduled foreign air transportation of persons, property, and mail between the co-terminal points Dallas/Ft. Worth, Texas, and Miami, Florida, via intermediate points in the Azores and Lisbon, Portugal, and the co-terminal points Madrid, Barcelona, Malaga, and Palma de Mallorca, Spain.

Phyllis T. Kaylor,
Chief, Documentary Services Division.

[FR Doc. 91–19766 Filed 8–16–91; 8:45 am]
BILLING CODE 4910–62–M

Federal Aviation Administration

Aviation Rulemaking Advisory Committee; Air Traffic Subcommittee

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of establishment of Air Traffic Subcommittee.

SUMMARY: Notice is given of the establishment of an Air Traffic Subcommittee under the FAA Aviation Rulemaking Advisory Committee. This notice informs the public of the activities of the Aviation Rulemaking Advisory Committee.

FOR FURTHER INFORMATION CONTACT: Mr. Aaron Boxer, Executive Director, Air Traffic Subcommittee, Air Traffic Rules and Procedures Service (ATP–230), 800 Independence Avenue, SW., Washington, DC 20591, Telephone: (202) 267–8783; FAX: (202) 267–5809.

SUPPLEMENTARY INFORMATION: On January 14, 1991, the Federal Aviation Administration (FAA) announced the establishment of the Aviation Rulemaking Advisory Committee (56 FR 2190, January 22, 1991). The committee charter became effective on February 5, 1991, when notices of establishment were sent to the appropriate Congressional Committees. The advisory committee provides advice and recommendations to the FAA concerning the full range of the FAA's rulemaking activity with respect to safety-related issues, including air traffic operations. The committee held its first meeting at Baltimore, MD, on May 23, 1991 (56 FR 20492, May 3, 1991). At that meeting, the committee formed several subcommittees and charged them with developing advisory recommendations in different safety-related areas. The subcommittee Chairs and Executive Directors were named, and the member organizations identified. Finally, several specific tasks were assigned to the various subcommittees. At this first meeting, the committee also adopted procedures concerning the operation of the committee, its subcommittees, and their working groups.

Under the procedures adopted by the full committee, each subcommittee meeting is open to the public, except as authorized in section 10(d) of the Federal Advisory Committee Act. Also, notice is given beforehand of the subcommittee meeting agenda. A subcommittee may form working groups made up of experts from those having an interest in an issue to do tasks assigned to the subcommittee. Working group meetings need not be open to the public. This is because working groups must bring their work product back to the subcommittee for full, open, and substantive discussion, and may not communicate directly with the FAA. The subcommittee may: (1) Accept a working group work product and send it directly to the FAA; (2) Modify the work product and send it directly to the FAA; or (3) Return the work product to the working group with instructions for further activity. Thus, while the functions of a subcommittee are solely advisory, they create a framework within which interested parties may negotiate proposed or final rules and present their consensus to the FAA for action. The more complete these products, the more likely they are to be accepted by the FAA without change and formally published as proposed or final rules. The activities of the Aviation Rulemaking Advisory Committee, and its subcommittees, are consistent with the newly enacted Negotiated Rulemaking Act of 1990 (Pub. L. 101–648).

The Air Traffic Subcommittee will provide advice and recommendations to the Director, Air Traffic Rules and Procedures Service, FAA, on air traffic operations rulemaking actions.

The Air Traffic Subcommittee consists solely of the following members of the Aviation Rulemaking Advisory Committee:

- Aerospace Industries Association.
- Air Line Pilots Association.
- Air Traffic Control Association.
- Air Transport Association of America.
- Airbus Industrie.
- Aircraft Owners & Pilots Association.
- Airline Passengers Association of North America, Inc.
- Airport Operators Council International/American Association of Airport Executives.
- Aviation Consumer Action Project.
- Balloon Federation of America.
- Boeing Commercial Airplane Group.
- Experimental Aircraft Association.
- Flight Safety Foundation.

- General Aviation Manufacturers Association.
- Helicopter Association International.
- International Foundation for Airline Passengers.
- McDonnell Douglas Corporation.
- National Aeronautics Association.
- National Association of Flight Instructors.
- National Association of State Aviation Officials.
- National Business Aircraft Association.
- Regional Airline Association.
- The Soaring Society of America.
- United States Parachute Association.
- United States Ultralight Association.
- University Aviation Association.

The establishment of the first Air Traffic Subcommittee working group (the General Aviation Mode S Working Group) is announced elsewhere in this issue of the **Federal Register**. The Secretary of Transportation has determined that the formation and use of the Aviation Rulemaking Advisory Committee and its subcommittees are necessary in the public interest in connection with the performance of duties imposed on the FAA by law.

Issued in Washington, DC, on August 13, 1991.

Aaron Boxer,

Executive Director, Air Traffic Subcommittee, Aviation Rulemaking Advisory Committee.

[FR Doc. 91-19727 Filed 8-16-91; 8:45 am]

BILLING CODE 4910-13-M

Aviation Rulemaking Advisory Committee; Air Traffic Subcommittee; General Aviation Mode S Working Group

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of establishment of General Aviation Mode S Working Group.

SUMMARY: Notice is given of the establishment of a General Aviation Mode S Working Group by the Air Traffic Subcommittee of the Aviation Rulemaking Advisory Committee. This notice informs the public of the activities of the Air Traffic Subcommittee of the Aviation Rulemaking Advisory Committee.

FOR FURTHER INFORMATION CONTACT: Mr. Aaron Boxer, Executive Director, Air Traffic Subcommittee, Air Traffic Rules and Procedures Service (ATP-230), 800 Independence Avenue, SW., Washington, DC 20591, Telephone: 202-267-8783; FAX: 202-267-5809.

SUPPLEMENTARY INFORMATION: The Federal Aviation Administration (FAA) established an Aviation Rulemaking Advisory Committee (56 FR 2190, January 22, 1991) which held its first meeting on May 23, 1991 (56 FR 20492, May 3, 1991). The Air Traffic Subcommittee was established at that meeting to provide advice and recommendations to the Director, Air Traffic Rules and Procedures Services, on air traffic operations rulemaking actions. At its first meeting on May 24, 1991 (56 FR 20492, May 3 1991), the subcommittee established the General Aviation Mode S Working Group.

Specifically, the working group's task is the following:

Validate the requirement for Mode S to be installed on general aviation aircraft, including the expected benefits to be derived from installation. Who should be required to have Mode S transponders? Is Mode S on general aviation aircraft necessary for the air traffic system to realize significant safety benefits? Can the system do without a Mode S requirement on general aviation aircraft? Should Mode S requirements exist for flight into high-density areas? By December 31, 1991, provide to the FAA a completed document.

The General Aviation Mode S Working Group will be comprised of experts from those organizations having an interest in the task assigned to it. A working group member need not necessarily be a representative of one of the organizations of the parent Air Traffic Subcommittee or of the full Aviation Rulemaking Advisory Committee. An individual who has expertise in the subject matter and wishes to become a member of the working group should write the person listed under the caption **FOR FURTHER INFORMATION CONTACT** expressing that desire and describing his or her interest in the task and the expertise he or she would bring to the working group. The request will be reviewed with the subcommittee chair and working group leader and the individual advised whether or not the request can be accommodated.

The Secretary of Transportation has determined that the formation and use of the Aviation Rulemaking Advisory Committee and its subcommittees are necessary in the public interest in connection with the performance of duties imposed on the FAA by law. Meetings of the full committee and any subcommittees will be open to the public except as authorized by section 10(d) of the Federal Advisory Committee Act. Meetings of the General Aviation Mode S Working Group will not be open to the public, except to the extent that individuals with an interest and expertise are selected to participate. No public announcement of working group meetings will be made.

Issued in Washington, DC, on August 13, 1991.

Aaron Boxer,

Executive Director, Air Traffic Subcommittee, Aviation Rulemaking Advisory Committee.

[FR Doc. 91-19728 Filed 8-16-91; 8:45 am]

BILLING CODE 4910-13-M

Federal Highway Administration

National Motor Carrier Advisory Committee; Meetings

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of public meetings.

SUMMARY: The FHWA announces that the National Motor Carrier Advisory Committee (NMCAC) will hold its next meeting on September 10 and 11, 1991, 400 Seventh Street, SW., room 2203, Washington, DC. The meeting will be from 8 a.m. to 5 p.m. on September 10 and from 8:30 a.m. to 12 p.m. on September 11. The focus of the meeting is on reauthorization legislation, driver's training, status and future direction of the Motor Carrier Safety Assistance Program (MCSAP), FHWA 2000, issues in domestic freight transportation, as well as other topics.

FOR FURTHER INFORMATION CONTACT: Mr. Douglas J. McKelvey, Federal Highway Administration, HIA-20, room 3104, 400 Seventh Street, SW., Washington, DC 20590, (202) 366-1861, office hours are from 7:45 a.m. to 4:15 p.m., e.t., Monday through Friday, except for legal holidays.

(23 U.S.C. 315; 49 CFR 1.48)

Issued on: August 9, 1991.

T. D. Larson,

Administrator.

[FR Doc. 91-19783 Filed 8-16-91; 8:45 am]

BILLING CODE 4910-22-M

Office of Hearings

[Docket 47654]

U.S.-Italy Service Proceeding; Order Granting Petitions for Leave To Intervene

August 13, 1991.

In accordance with Order 91-7-28 issued on July 22, 1991, which instituted the above-referenced proceeding, the petitions for leave to intervene filed by the following parties [1] are granted

[1] On August 8, 1991, the New Jersey Department of Commerce and Economic Development, the City

Continued

pursuant to the authority conferred by 14 CFR 385.11(a):

Cities of Dallas and Fort Worth, Texas; Chambers of Commerce of Dallas and Forth Worth, Texas; Dallas/Fort Worth International Airport Board; and North Texas Commission ("Dallas/Forth Worth Parties")

State of Georgia, City of Atlanta, Hartsfield Atlanta International Airport, and Atlanta Chamber of Commerce ("Georgia & Atlanta Parties")

City of Houston and Greater Houston Chamber of Commerce ("Houston Parties"),[2] Greater Pittsburgh International Airport and County of Allegheny, Pennsylvania ("Pittsburgh Parties")

Commonwealth of Virginia, Department of Aviation; Metropolitan Washington Airports Authority; and Washington Airports Task Force ("Washington Dulles Parties")

Petitions to the U.S. Department of Transportation for review of this order shall be filed pursuant to 14 CFR 385.51 within ten (10) days after the date of service of this order.

This order shall be effective and become the action of the U.S. Department of Transportation upon expiration of the above period unless, before that date, petitions for review thereof are filed or the Department gives notice that it will review this order on its own motion.

John J. Mathias,

Chief Administrative Law Judge.

[FR Doc. 91-19768 Filed 8-16-91; 8:45 am]

BILLING CODE 4910-62-M

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of Newark, and the Metro Newark Chamber of Commerce ("New Jersey Parties") filed a petition for leave to intervene and asked that their petition be received late. They stated that they were unable to file their petition by the August 5, 1991 due date for intervention petitions because the three separate entities required more time for coordination after receiving the application filed by Continental Airlines in the proceeding for Newark-Milan/Rome authority.

By separate order issued this date, the parties to the proceeding shall be required to respond to the New Jersey Parties' petition for leave to intervene and to file late, on or before August 19, 1991.

[2] The Houston Parties did not appear at the Prehearing Conference for the proceeding held on August 7, 1991. They were not included, therefore, in the Exhibit Exchange List or the Service List attached to the Prehearing Conference Report issued August 9, 1991. The Houston Parties have subsequently notified the Presiding Judge that until the Department acts on the Petition for Reconsideration of the proceeding's instituting order filed by Continental Airlines on August 2, 1991, they wish to be listed on the Service List only. Accordingly, a First Revised Service List is attached to this order.

[Docket No. 47654]

U.S.-Italy Service Proceeding; Order Granting Motions to Consolidate

August 13, 1991.

In accordance with Order 91-7-28 issued on July 22, 1991, which instituted the above-referenced proceeding, the motions to consolidate filed by the following parties are granted pursuant to the authority conferred by 14 CFR 385.11(c):

American Airlines, Inc.—Docket 47684
Continental Airlines, Inc.—Docket 47682
Delta Air Lines, Inc.—Docket 47679
United Air Lines, Inc.—Docket 47678
USAir, Inc.—Docket 47683

It is noted that American Airlines filed an answer on August 8, 1991, opposing the application of Continental Airlines for Newark-Milan/Rome authority and Continental's motion to consolidate the application into the *U.S.-Italy Service Proceeding.* American argued that Newark cannot be deemed a separate point from New York, and service between New York and Italy is excluded from the scope of the proceeding. See Order 91-7-28, issued July 22, 1991. As American acknowledged, however, Continental filed a petition for reconsideration of Order 91-7-28 on August 1, 1991, to clarify this issue and, accordingly, until the Department acts on the petition, Continental will be permitted to pursue its application in this proceeding.

It is further noted, with regard to Continental's application, that answers in opposition to Continental's petition for reconsideration have been filed with the Department by American Airlines, Delta Air Lines, Trans World Airlines, United Air Lines, USAir, and Public Counsel.[1]

Petitions to the U.S. Department of Transportation for review of this order shall be filed pursuant to 14 CFR 385.51 within ten (10) days after the date of service of this order.

This order shall be effective and become the action of the U.S. Department of Transportation upon expiration of the above period unless, before that date, petitions for review thereof are filed or the Department gives notice that it will review this order on its own motion.

John J. Mathias,

Chief Administrative Law Judge.

[FR Doc. 91-19769 Filed 8-16-91; 8:45 am]

BILLING CODE 4910-62-M

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[1] The status of American Airline's application in the proceeding is also in question at this time and clarification of the matter has been sought by Public Counsel in a petition for reconsideration of Order 91-7-28 which was filed on August 1, 1991. Public Counsel seeks resolution of whether, under the relevant bilateral agreements between the United States and Italy, the authority at issue in the proceeding may be awarded to a carrier which already holds a designation to serve the U.S.-Italy market or to one which succeeds to a designation now held by an incumbent. American Airlines currently provides scheduled combination service between Chicago and Milan.

DEPARTMENT OF THE TREASURY

Office of the Secretary

[Supplement to Department Circular—Public Debt Series—No. 26-91]

Treasury Bonds of August 2021; Interest Rate

Washington, August 9, 1991.

The Secretary announced on August 8, 1991, that the interest rate on the bonds designated Bonds of August 2021, described in Department Circular—Public Debt Series—No. 26-91 dated August 1, 1991, will be 8⅛ percent. Interest on the bonds will be payable at the rate of 8⅛ percent per annum.

Gerald Murphy,

Fiscal Assistant Secretary.

[FR Doc. 91-19735 Filed 8-16-91; 8:45 am]

BILLING CODE 4810-40-M

[Supplement to Department Circular—Public Debt Series—No. 25-91]

Treasury Notes, Series C-2001; Interest Rate

Washington, August 8, 1991.

The Secretary announced on August 7, 1991, that the interest rate on the notes designated Series C-2001, described in Department Circular—Public Debt Series—No. 25-91 dated August 1, 1991, will be 7⅞ percent. Interest on the notes will be payable at the rate of 7⅞ percent per annum.

Gerald Murphy,

Fiscal Assistant Secretary.

[FR Doc. 91-19734 Filed 8-16-91; 8:45 am]

BILLING CODE 4810-40-M

[Supplement to Department Circular—Public Debt Series—No. 24-91]

Treasury Notes, Series T-1994; Interest Rate

Washington, August 7, 1991.

The Secretary announced on August 6, 1991, that the interest rate on the notes designated Series T-1994, described in Department Circular—Public Debt Series—No. 24-91 dated August 1, 1991, will be 6⅞ percent. Interest on the notes

will be payable at the rate of 6⅞ percent per annum.

Gerald Murphy,

Fiscal Assistant Secretary.

[FR Doc. 91-19733 Filed 8-16-91; 8:45 am]

BILLING CODE 4810-40-M

Customs Service

Reorganization of the Office of Regulations and Rulings

AGENCY: Customs Service, Department of the Treasury.

ACTION: Notice of reorganization.

SUMMARY: In order to assist the public in submitting ruling requests on legal issues within the purview of the Customs Service, this document advises of organizational changes within the Office of Regulations and Rulings, Office of Commercial Operations, Customs Service Headquarters.

FOR FURTHER INFORMATION CONTACT: Donna Hartung, Office of Regulations and Rulings (202-566-2507).

SUPPLEMENTARY INFORMATION:

Background

Within the Office of Commercial Operations, Customs Service Headquarters, the Office of Regulations and Rulings (OR&R) is responsible for developing, implementing, and evaluating programs, policies, and procedures pertaining to regulations, legal rulings, and positions affecting Customs Service programs and the public. OR&R provides policy and technical support within Customs and to the Department of the Treasury, the Congress, other Government agencies, and the importing public concerning the interpretation and application of the Customs and related laws, regulations and procedures. OR&R is responsible for the issuance of legal rulings, determinations and guidelines in a wide variety of areas, including fines, penalties, forfeitures and claims for liquidated damages, classification and valuation of imported merchandise, entry and admissibility of merchandise, drawback, bonds, carriers and matters under the navigation laws enforced by Customs, licensing, intellectual property, and disclosure of information.

As part of a continuing program to obtain more efficient use of personnel and to provide better service to the public, the Commissioner of Customs has instituted a reorganization of certain functions and offices within OR&R. This reorganization, which took effect on December 30, 1990, is intended to improve the supervisory span of control, uniformity of rulings, and timely processing of ruling requests. The functional units within OR&R and their principal areas of responsibility are as follows:

International Nomenclature Staff

The International Nomenclature Staff is responsible for developing, presenting, and monitoring the comprehensive Customswide program administering the Harmonized Tariff Schedule of the United States (HTSUS). The Staff also prepares positions on technical tariff nomenclature matters which arise before the Harmonized System Committee of the Customs Co-operation Council (CCC) in Brussels, Belgium, and represents the United States at CCC working party and committee meetings dealing with nomenclature matters.

Commercial Rulings Division

Value and Marking Branch

The Value and Marking Branch is responsible for the issuance of rulings pertaining to the valuation of imported merchandise and also monitors and participates in the work of the CCC Technical Committee on Customs Valuation. The Branch is responsible for issuing rulings concerning country of origin marking and labeling requirements and exceptions and resolving questions concerning the entry of merchandise which involves use of the substantial transformation rule.

Entry Rulings Branch

The Entry Rulings Branch is responsible for preparing decisions, rulings, and positions on legal issues involving the following areas: The entry of merchandise; allowances and refunds on merchandise; the licensing and bonding of cartmen, lightermen, container station operations, and Customs brokers; clerical errors and mistakes in entry liquidation, appraisement or other Customs transactions; the validity or sufficiency of examination of merchandise; the validity of liquidation and reliquidation of entries; drawback claims; the security of merchandise on docks, etc.; merchandise in Customs custody; operation of duty-free shops; unclaimed and abandoned merchandise; vessel and aircraft supplies and equipment; the admission and processing of merchandise in foreign trade zones; international carnets; and personal exemptions for returning residents, non-residents, foreign military personnel, and other individuals. The Branch is similarly responsible for legal questions involving Customs bonds and bonded merchandise, including the applicability, appropriateness and form of bonds, the entry of merchandise under temporary importation bonds, and the transportation of merchandise under bond. The Branch is also responsible for legal aspects of the warehousing system, including the establishment, administration and operation of Customs bonded warehouses, the entry and withdrawal of merchandise from warehouse, and other warehouse transactions.

Food and Chemicals Classification Branch

The Food and Chemicals Classification Branch is responsible for the issuance of rulings and other legal determinations regarding the classification of commodities under the following Chapters of the HTSUS: Chapters 1-24 (animal and plant products, food preparations, beverages, and tobacco); Chapters 25-27 (minerals products); Chapters 28-38 (chemical products); Chapters 39 and 40 (plastics and rubber); Chapter 95 (toys, games, and sports requisites); Chapter 96 (miscellaneous manufactured articles); and Chapter 97 (works of art and antiques).

Textile Classification Branch

The Textile Classification Branch is responsible for the issuance of rulings and other legal determinations regarding the classification of commodities under the following Chapters of the HTSUS: Chapters 41-43 (hides and skins, leather products, travel goods, handbags, and animal gut products); Chapters 44-46 (wood, cork, and plaiting products); Chapter 47-49 (wood pulp, paper and paperboard, printed matter, and manuscripts); Chapters 50-63 (textile products); and Chapters 65-67 (headgear, umbrellas, walking sticks, whips, and feather and down products).

Metals and Machinery Classification Branch

The Metals and Machinery Classification Branch is responsible for the issuance of rulings and other legal determinations regarding the classification of commodities under the following Chapters of the HTSUS: Chapter 64 (footwear); Chapters 68-70 (stone, plaster, cement, asbestos, mica, ceramic, and glass products); Chapter 71 (pearls, precious stone and metal products, and imitation jewelry); Chapters 72-83 (base metal products); Chapters 84 and 85 (nuclear reactors, machinery and mechanical appliances, and electrical machinery and equipment); Chapters 86-89 (vehicles, aircraft, and vessels); Chapters 90-92

(optical, photographic, measuring and medical instruments and apparatus, clocks and watches, and musical instruments); and Chapters 93 and 94 (arms and ammunition, furniture, stuffed furnishings, lamps and lighting fittings, illuminated signs, and prefabricated buildings).

Special Classification Branch

The Special Classification Branch is responsible for the issuance of rulings and other legal determinations involving the special classification provisions contained in Chapter 98 of the HTSUS. The Branch is also responsible for the resolution of legal and policy issues relating to the Generalized System of Preferences and Caribbean Basin Initiative duty-preference programs. In addition, the Branch is responsible for the issuance of decisions on domestic interested party petitions under 19 U.S.C. 1516 and on uniformity petitions under part 177 of the Customs Regulations. The Branch also processes all applications for duty-free entry of scientific instruments and apparatus imported for scientific or educational purposes. The Branch is also responsible for all special projects involving very politically sensitive and time-consuming legal and policy issues.

International Trade Compliance Division

Regulations and Disclosure Law Branch

The Regulations and Disclosure Law Branch is responsible for the drafting, review and coordination of documents for publication in the **Federal Register** and the Customs Bulletin, including revisions and amendments to the Customs Regulations, notices of Customs procedures and policies, the Semiannual Regulatory Agenda, and rulings issued by other offices within OR&R. The Branch also performs a wide variety of functions regarding the availability, release and distribution of information and records maintained by Customs, including the following: Oversight and coordination of Customs policy and procedures under the Freedom of Information Act and the Privacy Act, including the review and disposition of administrative appeals under those Acts; determinations regarding the disclosability of information for official purposes to other Federal agencies, state and local authorities, and foreign governments; issuance of instructions to Customs officers regarding compliance with judicial subpoenas for officers' testimony and production of documents in court proceedings; and providing policy guidance regarding the availability of information from vessel manifests to members of the press and the general public.

Penalties Branch

The Penalties Branch is responsible for providing guidance to Customs offices and issuing rulings and other legal determinations with respect to seizures and forfeitures incurred under the Customs and related laws and with respect to fines, penalties and liquidated damages assessed for civil violations of the Customs laws and those other laws enforced by Customs. The specific functions of the Branch include: issuing decisions on petitions for relief referred to Headquarters from field offices with regard to fines, penalties, forfeitures and liquidated damage claims for all Customs-enforced civil violations including the currency and monetary reporting laws; processing informer compensation claims referred to Headquarters; deciding cases and providing policy guidance regarding violations of the export control laws (including export administration, munitions control and related laws) and the foreign assets control and related emergency sanctions laws; and preparing and coordinating directives, instructions and handbooks, and conducting training for Customs officers and the public, regarding the foregoing areas.

Carrier Rulings Branch

The Carrier Rulings Branch is responsible for preparing rulings and other legal determinations and for providing policy advice and instruction to Customs field offices regarding the following matters: Vessel, vehicle and aircraft arrival, entry, clearance, use and dutiability; carrier documentation such as manifests, permits and T.I.R. carnets; coastwise restrictions on transportation of passengers and merchandise by vessel; salvage, dredging and towing operations in the United States and its territories and possessions and on the Outer Continental Shelf; prohibitions against fishing and transporting fish in the territorial sea and contiguous fisheries zone, operating fish processing vessels, and landing fish in the United States; dutiability of foreign repairs to, and equipment purchases for, United States vessels and refund or remission of such duties; carrier activities in and between United States territories and possessions; designation, movement and control of articles as instruments of international traffic; waiver of the navigation laws in the interest of national defense; tonnage taxes, light money and harbor maintenance fees; and application of the navigation and Customs laws to the Outer Continental Shelf.

Intellectual Property Rights Branch

The Intellectual Property Rights Branch is responsible for the following: Issuing decisions and formulating policy and regulations to ensure the protection of U.S. intellectual property rights (IPR) which encompass trademarks, tradenames, copyrights, patents and trade dress; coordinating the identification of legislative requirements for modernizing, clarifying and strengthening Customs statutory authority in the IPR area; informing the public, principally through existing trade associations and other industry groups, of Customs interest in identifying unfair trade practices and of Customs ability to assist in protecting intellectual property rights; recordation of trademarks, tradenames and copyrights in order to protect against imports which constitute infringement; implementation of exclusion orders issued by the ITC and patent surveys, as a means of protecting patent owners against infringement; resolving issues concerning the entry of restricted or prohibited merchandise, including the importation of seditious, treasonable, obscene or immoral materials; and issuing decisions and guidance concerning the importation or exportation of cultural property, including pre-Colombian art and artifacts and items subject to the UNESCO Convention on Cultural Property.

Dated: August 13, 1991.

Harvey B. Fox,

Director, Office of Regulations and Rulings.

[FR Doc. 91-19763 Filed 8-16-91; 8:45 am]

BILLING CODE 4820-02-M

Sunshine Act Meetings

Federal Register
Vol. 56, No. 160
Monday, August 19, 1991

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

FEDERAL DEPOSIT INSURANCE CORPORATION

Notice of Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 3:34 p.m. on Wednesday, August 14, 1991, the Board of Directors of the Federal Deposit Insurance Corporation met in closed session to consider the following:

Matters relating to the probable failure of certain insured banks.

Recommendation concerning an administrative enforcement proceeding.

Matters relating to certain financial institutions.

In calling the meeting, the Board determined, on motion of Director C.C. Hope, Jr. (Appointive), seconded by Vice Chairman Andrew C. Hove, Jr., concurred in by Jonathan L. Fiechter, acting in the place and stead of Director T. Timothy Ryan, Jr. (Office of Thrift Supervision), William Bowden, acting in the place and stead of Director Robert L. Clarke (Comptroller of the Currency), and Chairman L. William Seidman, that Corporation business required its consideration of the matters on less than seven days' notice to the public; that no earlier notice of the meeting was practicable; that the public interest did not require consideration of the matters in a meeting open to public observation; and that the matters could be considered in a closed meeting by authority of subsections (c)(6), (c)(8), (c)(9)(A)(ii), and (c)(9)(B) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(6), (c)(8), (c)(9)(A)(ii), and (c)(9)(B)).

The meeting was held in the Board Room of the FDIC Building located at 550–17th Street, N.W., Washington, D.C.

Dated: August 14, 1991.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Deputy Executive Secretary.

[FR Doc. 91–19931 Filed 8–15–91; 3:17 pm]

BILLING CODE 6714–01–M

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

August 14, 1991.

TIME AND DATE: 10:00 a.m., Thursday, August 22, 1991.

PLACE: Room 600, 1730 K Street, N.W., Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED: The Commission will consider and act upon the following:

1. *Utah Power & Light Company,* Docket No. WEST 90–285–R. (Issues include whether the judge erred in finding that the use of two EIMCO 915 diesel scoops created an imminent danger.)

2. *Gatliff Coal Company, Inc.,* Docket No. KENT 89–242–R, etc. (Issues include whether the judge erred in finding that Gatliff did not violate 30 CFR § 77.1701.)

Any person attending this meeting who requires special accessibility features and/or auxiliary aids, such as sign language interpreters, must inform the Commission in advance of those needs. Subject to 29 CFR § 2706.150(a)(3) and § 2706.160(d).

CONTACT PERSON FOR MORE INFO: Jean Allen, (202) 653–5629 / (202) 708–9300 for TDD Relay 1–800–877–8339 (Toll Free).

Jean H. Ellen,

Agenda Clerk.

[FR Doc. 91–19932 Filed 8–15–91; 3:27 pm]

BILLING CODE 6735–01–M

RESOLUTION TRUST CORPORATION

Notice of Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 3:56 p.m. on Wednesday, August 14, 1991, the Board of Directors of the Resolution Trust Corporation met in closed session to consider: (1) The resolution of failed thrift institutions; and (2) the sale of assets.

In calling the meeting, the Board determined, on motion of Director C.C. Hope (Appointive), seconded by Vice Chairman Andrew C. Hove, Jr., and concurred in by Chairman L. William Seidman, William P. Bowden, Jr., acting in the place and stead of Director Robert L. Clarke (Comptroller of the Currency), and Jonathan L. Fiechter, acting in the place and stead of Director T. Timothy Ryan Jr. (Director of Office of Thrift Supervision), that Corporation business required its consideration of the matters on less than seven days' notice to the public; that no earlier notice of the meeting was practicable; that the public interest did not require consideration of the matters in a meeting open to public observation; and that the matters could be considered in a closed meeting by authority of subsections (c)(4), (c)(8), (c)(9)(A)(ii), and (c)(9)(B) of the "Government in the Sunshine Act" (5 U.S.C. 552b).

The meeting was held in the Board Room of the Federal Deposit Insurance Corporation Building located at 550—17th Street, N.W., Washington, DC.

Dated: August 15, 1991.

Resolution Trust Corporation.

William J. Tricarico,

Assistant Executive Secretary.

[FR Doc. 91–19884 Filed 8–15–91; 1:47 pm]

BILLING CODE 6714–01–M

Corrections

Federal Register
Vol. 56, No. 160
Monday, August 19, 1991

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

DEPARTMENT OF AGRICULTURE

Food Safety and Inspection Service

9 CFR Part 327

[Docket No. 90-007P]

RIN No. 0583-AB31

Removal of Piece Size Requirements and Packaging Limitations of Imported Fresh or Cured Meat and Meat Products

Correction

In proposed rule document 91-19207 beginning on page 38361 in the issue of Tuesday, August 13, 1991, make the following correction:

§ 327.3 [Corrected]

On page 38364, in the second column, in the amendatory instruction for § 327.3, in the second line, "requiring" should read "removing".

BILLING CODE 1505-01-D

DEPARTMENT OF COMMERCE

International Trade Administration

[A-583-009]

Color Television Receivers, Except for Video Monitors, From Taiwan; Preliminary Results and Termination in Part of Antidumping Duty Administrative Review

Correction

In notice document 91-18227, beginning on page 36765, in the issue of Thursday, August 1, 1991, make the following correction:

The table on page 36767 should have appeared as set forth below:

Manufacturer/Exporter	Time period	Margin (percent)
Action Electronics Co., Ltd.	04/01/87-03/31/88	0.30
	04/01/89-03/31/90	7.07
AOC International, Inc.	04/01/87-03/31/88	8.57
	04/01/89-03/31/90	0.23
Funai Electric Co. Ltd.	04/01/87-03/31/88	[2] 23.90
	04/01/89-03/31/90	[1] 4.44
Fulet Electronic Industrial Co., Ltd.	04/01/87-03/31/88	0.52
Hitachi Television (Taiwan) Ltd.	04/01/87-03/31/88	23.90
	04/01/89-03/31/90	[1] 10.82
Kuang Yuan Co., Ltd.	04/01/87-03/31/88	[1] 0.00
	04/01/89-03/31/90	0.00
Nettek Corp., Ltd.	04/01/87-03/31/88	[2] 23.90
	04/01/89-03/31/90	[2] 10.82
Paramount Electronics	04/01/87-03/31/88	[2] 23.90
	04/01/89-03/31/90	[2] 10.82
Philips Electronic Industries (Taiwan), Ltd.	04/01/87-03/31/88	6.65
	04/01/89-03/31/90	[1] 10.82
RCA Taiwan, Ltd.	04/01/87-03/31/88	6.48
	04/01/89-03/31/90	1.94
Sampo Corp.	04/01/87-03/31/88	[1] 0.78
	04/01/89-03/31/90	[1] 0.78
Sanyo Electric (Taiwan) Co., Ltd.	04/01/87-03/31/88	[1] 4.66
	04/01/89-03/31/90	[1] 4.66
Shinlee Corp.	04/01/89-03/31/90	[2] 10.14
Shin-Shirasuna Electric Corp..	04/01/87-03/31/88	8.08
	04/01/89-03/31/90	[1] 10.82
Tatung Co.	04/01/87-03/31/88	0.98
	04/01/89-03/31/90	1.88
Teco Electric and Machinery Co., Ltd.	04/01/89-03/31/90	[2] 8.57

[1] No shipments during the period; rate is from the last review in which there were shipments.
[2] No response; we therefore used the best information available, which was either the highest rate among respondent firms in the relevant review, or the subject firm's most recent margin, whichever was higher.

BILLING CODE 1505-01-D

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NV-030-01-4214-10; CACA 24052]

Proposed Withdrawal and Opportunity for Public Meeting; California

Correction

In notice document 91-15423 beginning on page 29710 in the issue of Friday, June 28, 1991, make the following corrections:

On page 29710, in the first column, in the land description for **Mount Diablo Meridian, California:**

1. In Sec. 3, in the fifth line, remove "E½"at the end of the line; and in the sixth line, remove "SE¼," at the beginning of the line.

2. In Sec. 9, in the second line, after "SW¼," remove "NW¼,".

3. In Sec. 10, in the second line, "E½SW¼NW¼" should read "N½SW¼NW¼".

BILLING CODE 1505-01-D

federal register

Monday
August 19, 1991

Part II

Environmental Protection Agency

40 CFR Parts 261, 268, and 271
Land Disposal Restrictions for Electric Arc Furnace Dust; Final Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 261, 268, and 271

[FRL-3973-8]

RIN 2050-AD20

Land Disposal Restrictions for Electric Arc Furnace Dust (K061)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is today finalizing treatment standards under the land disposal restrictions (LDR) program for a subcategory of the hazardous waste K061 (electric arc furnace dust) treatability group, namely nonwastewaters that contain equal to or greater than 15% total zinc (i.e., high zinc subcategory), determined at the point of initial generation. These treatment standards are based on the performance of high temperature metals recovery (HTMR) processes; specifically, the standards are based on analysis of slags from these processes. The Agency is also finalizing a generic exclusion from the derived-from rule for HTMR nonwastewater slag residues generated from processing K061, provided that these slag residues meet designated concentration levels, are disposed of in subtitle D units, and exhibit no characteristics of hazardous waste. Furthermore, today's rule finalizes a conditional exclusion from classification as a solid waste for K061 HTMR splash condenser dross residue.

EFFECTIVE DATE: This final rule is effective on August 8, 1991.

ADDRESSES: The official record for this rulemaking is identified as docket F-91-K61P-FFFF, and is located in the EPA RCRA Docket, room 2427, 401 M Street SW., Washington, DC 20460. The docket is open from 9 a.m. to 4 p.m., Monday through Friday, except on federal holidays. An appointment must be made to examine the docket by calling (202) 475-9327. Up to 100 pages of a regulatory document may be copied at no cost; beyond 100 pages the cost is 15 cents per page.

FOR FURTHER INFORMATION CONTACT: For general information, contact the RCRA Hotline at (800) 424-9346 (toll free), (703) 920-9810 locally. For information on the final rule, contact the Waste Treatment Branch, Office of Solid Waste (OS-322W), U.S. Environmental Protection Agency, 401 M Street SW., Washington, DC 20460, (703) 308-8434. For information on the BDAT treatment standard, contact Laura Lopez, Office of Solid Waste (OS-322W), U.S. Environmental Protection Agency, 401 M Street SW., Washington DC 20460, (703) 308-8457. For information on the generic exclusion, contact Bob Kayser, Office of Solid Waste (OS-333), U.S. Environmental Protection Agency, 401 M Street SW., Washington, DC 20460, (202) 382-4770.

SUPPLEMENTARY INFORMATION:

Outline

I. Background

A. Summary of the Hazardous and Solid Waste Amendments of 1984 and the Land Disposal Restrictions Framework

The Hazardous and Solid Waste Amendments (HSWA) to the Resource Conservation and Recovery Act (RCRA), enacted on November 8, 1984, generally prohibit the land disposal of untreated hazardous wastes. HSWA requires the Agency to set "* * * levels or methods of treatment, if any, which substantially diminish the toxicity of the waste or substantially reduce the likelihood of migration of hazardous constituents from the waste so that short-term and long-term threats to human health and the environment are minimized" (RCRA section 3004(m)(1)). Wastes that meet the treatment standards established by EPA may be land disposed. For the purposes of the restrictions, HSWA defines land disposal to include any placement of hazardous waste in a landfill, surface impoundment, waste pile, injection well, land treatment facility, salt dome formation, salt bed formation, or underground mine or cave (RCRA section 3004(k)).

The land disposal restrictions are effective when promulgated, unless the Administrator grants a national capacity variance from the otherwise applicable statutory prohibition date and establishes a different date (not to exceed two years) based on "* * * the earliest date on which adequate alternative treatment, recovery, or disposal capacity which protects human health and the environment will be available" (RCRA section 3004(h)(2)). The Administrator may also grant a case-by-case extension of the effective date for up to one year, renewable once for up to one additional year, when an applicant successfully makes certain demonstrations (RCRA section 3004(h)(3)). (See 55 FR 22526 for a more detailed discussion on national capacity variances and case-by-case extensions.)

In addition to prohibiting the land disposal of hazardous wastes, Congress prohibited storage of any waste which is prohibited from land disposal unless "* * * such storage is solely for the purpose of the accumulation of such quantities of hazardous waste as are necessary to facilitate proper recovery, treatment or disposal" (RCRA section 3004(j)).

B. Final Rule

Today's rule revises and finalizes treatment standards for K061 nonwastewaters in the high zinc subcategory (i.e., containing equal to or greater than 15% total zinc, determined at the point of initial generation). K061 wastes are defined in 40 CFR 261.32 as "Emission control dust/sludge from the primary production of steel in electric furnaces." Concentration-based treatment standards for K061 high zinc nonwastewaters are based on the analysis of nonwastewater slag residues from HTMR processes. (Although these residues have been commonly referred to as "slag," there is some question whether all of the HTMR processes technically generate slags. Slag is generally considered a residue from a thermal process in which metals have been in a molten mixture. Since this does not necessarily occur in all HTMR processes, the nonwastewater residues from some of these processes technically would not be slags. In addition, HTMR processes generate residues other than slag. Section II.C.6. below discusses the regulatory status of certain non-slag HTMR residues.)

Today's rule also finalizes a generic exclusion for K061 nonwastewater residues if: (1) They are generated from the HTMR process; (2) they meet the generic exclusion levels for all constituents; (3) they are disposed of in a Subtitle D unit; and (4) they exhibit no hazardous waste characteristics.

Furthermore, today's rule finalizes an exclusion from classification as a solid

waste under 40 CFR 261.4(a), for certain materials that are partially but not fully reclaimed. This variance applies to HTMR splash condenser dross residue provided it is shipped in drums (if processed off-site) and provided that it is not land disposed at any point before recovery occurs.

II. Detailed Discussion of Final Rule

A. History of K061 Treatment Standards

EPA first promulgated treatment standards for nonwastewater forms of K061 in the First Third final rule on August 8, 1988 (53 FR 31162–31164). The Agency established two subcategories for nonwastewater forms of K061: The low zinc subcategory (less than 15% total zinc) and the high zinc subcategory (equal to or greater than 15% total zinc). EPA determined that zinc could be recovered on a routine basis from K061 wastes containing equal to or greater than 15% total zinc utilizing HTMR. Although HTMR technologies can recover zinc from some K061 containing less than 15% total zinc, EPA determined that the 15% level represented a reasonable cutoff for distinguishing between the two subcategories for K061 wastes. The treatment standard for the low zinc subcategory was based on the performance of stabilization. For the high zinc subcategory, the final standard was expressed as "no land disposal" based on the determination that HTMR represents BDAT (53 FR 31221). Due to a shortage in HTMR capacity, an interim numerical standard based on the performance of stabilization was established until August 1990.

In the proposed Third Third rule (54 FR 48456–48457), the Agency requested comments on extending the existing interim standard of stabilization for another year. Because of the capacity storage, the Agency decided to extend the interim standard for one additional year.

The Agency also proposed in the Third Third to amend the existing treatment standard for the high zinc subcategory K061 wastes to be resmelting in a high temperature metal recovery furnace. However, EPA decided not to amend the existing standard in the final rule, as the metals recovery standard was under review by a panel of the District of Columbia Circuit Court of Appeals (55 FR 22599). In a June 26, 1990 decision, the court remanded the issue to EPA for further consideration (*API* v. *EPA*, 906 F.2d 726 (D.C. Cir. 1990)).

Although EPA determined in the First Third rulemaking that HTMR was BDAT for treating high zinc K061 hazardous wastes, the Agency concluded that it probably lacked the authority to establish any treatment standards under the K061 waste code for the residues resulting from the metals reclamation process. In particular, the Agency indicated that a jurisdictional bar could exist on regulating K061 dust as a "solid waste" within the meaning of RCRA Subtitle C once it entered a reclamation furnace where it functioned as, and was similar to, ordinary raw materials customarily processed in the industrial furnace. Therefore, residues derived from the reclamation process would not be derived from treating a hazardous waste. For purposes of the land disposal restrictions program, therefore, the residues would not be covered by the prohibition for K061 waste. The treatment standard of "no land disposal" reflected EPA's belief that slag residues from HTMR no longer carried the K061 waste code, so that no K061 waste was being disposed.

In its June 1990 decision, the court found it equally plausible that the K061 remained discarded throughout the waste treatment process and that residues from the process could still be classified as K061 (906 F.2d at 740–741). According to the court, the delivery of K061 waste to a metals reclamation facility is part of a mandatory waste treatment plan specified by EPA, and EPA can still consider it a solid waste under RCRA. *Id.* Therefore, the court held that EPA must reconsider its basis for declining to establish a treatment standard for K061 residues and remanded EPA's determination that HTMR slag residues are not covered by the K061 prohibition. In doing so, the court created a situation where a hard hammer (an absolute prohibition on waste disposal except in a no migration unit) could apply to these residues. This is because the existing interim treatment standard, based on the performance of stabilization technology, will lapse on August 8, 1991.

In this proceeding, the Agency is acting primarily to keep this absolute prohibition from occurring. We are not making any definitive determination on some of the broader issues raised by the court's opinion regarding which materials are and are not solid wastes when destined for recycling. In our view, the court's remand reinstituted existing Agency rules without any jurisdictional override imposed by the indigenous principle. Under these rules, K061 destined for metals reclamation is a solid waste. 40 CFR 261.2(c)(3). Non-product residues from the metals reclamation process remain hazardous wastes under the K061 waste code by virtue of the derived-from rule in 40 CFR 261.3(c)(2). The court noted the legal validity of these rules in the course of its opinion. 906 F.2d at 740–42.

Many commentors urged the Agency to find that K061 waste reclaimed by HTMR process is not a solid waste, either through interpretation of current rules, or by reference to the initial opinion of the DC Circuit on recycling (*AMC I*, 824 F.2d 1177 (DC Cir. 1987)). They also maintained that by deferring comment on the issue, the Agency was in fact deciding that these materials must be solid wastes.

EPA disagrees. We repeat that we are allowing the Court's opinion and mandate to operate, at least for the time being. The status quo created by the Court's mandate and the existing regulations thus continues in effect. We repeat that this means that K061 waste destined for reclamation via HTMR is a solid waste under existing rules because it is a listed waste being reclaimed (40 CFR 261.2(c)) and because at present there is no indigenous principle operating to cut off application of the derived-from rule. 906 F.2d at 740–41.

Nevertheless, the Agency is presently engaged in a comprehensive reevaluation of its rules on recycling, and may ultimately articulate new principles which bear on the issue of the status of K061 and the slag and other residues resulting from the HTMR process. Before that reevaluation is completed, however, EPA is acting pursuant to the current regulatory regime as described above.

The Agency notes in response to comment that it is reexamining its approach in making waste/non-waste determinations. The Agency is considering linking decisions on status as solid waste with environmental consequences of recycling activities. The *API* and *AMC II* (907 F.2d 1179 (DC Cir. 1990)) opinions invite a pragmatic, environmentally-based approach with their focus on whether a particular material destined for recycling is part of a waste disposal problem. Thus, the Agency would anticipate in future rulemakings on these issues that it would propose to examine not only that recycling is occurring but also the way these materials are managed before, during, and after recycling.

To the extent it is deemed necessary for EPA to address the policy implications of preserving the regulatory status quo (i.e., continuing to regulate K061 going to HTMR as a solid and hazardous waste and applying the derived-from rule to non-product residues), the Agency notes that this result is consistent with RCRA's cradle-to-grave mandate in that there will be strict supervision of toxic constituents

from K061 throughout all phases of its management, including partitioning into non-product residues of the HTMR process. The fact that the residue output of the HTMR process can be used in a manner constituting disposal shows that the continued management of residues is potentially part of the waste disposal problem (906 F.2d at 740), and thus that assertion of jurisdiction is warranted to further RCRA's traditional safety objectives. The Agency notes further, however, that it may be possible to advance these objectives, as well as RCRA's resource conservation and recovery purposes, by means other than full-scale regulatory controls. The Agency's disposition of the status of the splash condenser dross residue (see section II.C.6 below) illustrates how accommodation of both of these goals can be possible. Thus, we reiterate that today's action is not intended to forestall further Agency rulemaking dealing with questions of solid waste status and developing a regulatory scheme that may further both of the dual statutory purposes.

B. Development of Concentration-Based Treatment Standards Based on Recovery for K061 High Zinc

1. Summary of Treatment Performance Data

For the First Third rule in August, 1988, EPA had two sets of TCLP (referring to the Toxicity Characteristic Leaching Procedure according to § 261.24) data on the nonwastewater residues resulting from two different HTMR processes that were recovering zinc from K061 wastes in the high zinc subcategory. One of these HTMR processes consists of a series of Waelz kilns (a Waelz kiln is a type of rotary kiln), while the other was the SKF plasma arc furnace. At that time, however, EPA chose not to establish concentration-based treatment standards.

In September, 1990, additional TCLP data on residues from the recovery of zinc from K061 wastes in the high zinc subcategory (low in nickel and chromium) were submitted to the Agency by Horsehead Resource Development Company (HRD). This system uses a series of Waelz kilns, generating a crude zinc oxide and an iron-rich residue (referred to as "slag" in some FR notices, and in the *API* opinion) from the first kiln. The crude zinc oxide is typically sent to a second kiln for further separation after which it is normally suitable for smelting, while the iron-rich residue has been typically used as road aggregate. Based on the TCLP data for the iron-rich residue and the two sets of TCLP data submitted for the First Third rule, the Agency developed concentration-based treatment standards for 14 metals that were presented in the proposal.

During and after the close of the public comment period, the Agency received additional treatment performance data for other HMTR processes for K061 wastes. Treatment performance data representing properly designed and operated systems were received, in particular, from International Mills Service (IMS) and International Metals Reclamation Company, Incorporated (Inmetco).

Data submitted by IMS demonstrate recovery of zinc, lead, and cadmium from K061 high zinc wastes utilizing a plasma furnace with an Imperial Smelting Process (ISP) zinc splash condenser. The splash condenser can produce prime western grade zinc (i.e., 98 percent zinc, less than 1.4 percent lead and 0.5 percent cadmium) and metallic lead as products (i.e., materials put to direct use without smelting. IMS submitted a total of 16 TCLP results for 14 metals from the slag residual generated in the primary furnace.

Inmetco submitted three sets of TCLP results for the slag residual generated during the recovery of nickel, chromium, and iron from K061 high zinc subcategory. Inmetco's HTMR system consists of a rotary hearth furnace with a wet scrubber followed by an electric furnace with a baghouse. Zinc-rich materials containing lead and cadmium are also recovered as baghouse dusts and scrubber sludges and sent (as K061 hazardous waste) for further recovery of zinc.

Other data submitted on residues from HTMR processes were determined by EPA to be insufficient to represent full scale operations or were determined not to be representative of a properly operated system. Data and rationale for these determinations are provided in the background document for this rulemaking.

In a July 2, 1991 letter to all commenters on the proposed rule, EPA provided notice of additional data from HRD (collected during the First Third), and data submitted during the comment period by IMS and Inmetco. EPA also noticed for comment revised treatment standards derived from data used to develop the proposed standards and these new data.

2. Response to Major Comments on BDAT

EPA's responses to all comments are found in the Response to Comment Background Document. The following discussion summarizes the Agency's responses to the major comments on the development of BDAT treatment standards.

a. Use of HTMR Data from Recovery of Metals from Low Zinc K061. Commenters remarked that zinc is recovered from wastes containing less than 15 percent zinc; therefore, EPA should establish standards based on HTMR for all K061 wastes regardless of the zinc content. At the very least, commenters said that the Agency should use data that indicate the treatment performance of HTMR for wastes containing less than 15 percent zinc in the treatment standard calculation for K061 wastes in the high zinc subcategory. Commenters emphasized that it is common practice, especially for commercial recovery facilities, to blend these subcategories to achieve appropriate feed compositions for recovery (some of which are only slightly below the 15 percent cutoff); hence, commenters argued that EPA must consider recovery performance for low zinc wastes since the high zinc standards would be most stringent and take precedence over the K061 low zinc standards based on stabilization. The high zinc/low zinc dilemma also affects facilities utilizing site-specific HTMR units since the zinc content of K061 can vary depending on the grade of steel produced (i.e., most facilities produce many different types depending on demand) and the amount of galvanized steel scrap fed to the electric furnace (i.e., zinc concentration in K061 increases as the amount of galvanized steel scrap feed increases).

The Agency agrees with the commenters and has used data demonstrating the HTMR performance of K061 wastes containing a mixture of high and low zinc subcategories but having an overall zinc content less than 15 percent to develop final treatment standards. The treatment standards adopted today, however, only apply to the high zinc subcategory. Commenters may be correct that the continued subcategorization of K061 (i.e., into high zinc and low zinc subcategories) is unwarranted given that HTMR treatment (and probably other forms of treatment as well) are equally effective for each subcategory. Given the short time frame of this rulemaking, the Agency is not prepared to make a final decision on the issue at this time but may initiate further rulemaking in the near future. The Agency notes in addition, however, that mixtures of high and low zinc K061. This is because EPA regards this standard as more stringent than the low zinc K061 standard (the high zinc standard applies to more

constituents), and because the HTMR process is the BDAT technology due to its resource recovery and waste minimization potential (plus effective metal immobilization). The Agency is adding language to 40 CFR 268.41(b) to clarify that mixtures of low and high zinc K061 are subject to the high zinc treatment standard.

b. Use of Stabilization Data. Several commenters submitted data for stabilization of K061 wastes. The data did not, however, include concentration data for zinc, nickel, or chromium in the untreated K061 wastes, leachate analyses for all 14 metals in the stabilized residual, design and operating conditions, binder-to-waste ratios, water-to-waste ratios and/or waste-to-waste ratios. In the First Third final rule, EPA determined that HTMR represented BDAT for K061 wastes. These additional data did not cause the Agency to change it's decision. However, stabilization technologies may be used to achieve the treatment standards in today's rule (provided the standards are achieved through *bona fide* treatment rather than impermissible dilution).

c. Regulation of 14 Metals. Based on the new data discussed above, EPA is, today, promulgating treatment standards for all 14 of the metals that were proposed for regulation in K061 nonwastewaters in the high zinc subcategory. Except for vanadium, numerical standards for metals in TCLP leachates have been established. (As discussed below, the treatment standard for vanadium is promulgated as "reserved".)

In general, the Agency has decided to regulate all 14 metals for several reasons. First, information suggests that all 14 metals have a reasonably high potential for being present in any given K061 waste due to the nature of the steel manufacturing process from which the K061 is generated. Data on the composition of K061 indicate that these 14 metals are present at varying concentrations in K061 wastes from different generating facilities. This appears to be related to the types of scrap materials smelted in the electric furnace, the metals added to make certain types of steel alloys, and/or the grade of steel produced. Additional information on the potential for K061 wastes to contain all 14 metals is provided in the BDAT background document for today's rule.

Second, since all 14 metals have the potential to be present in K061, they all, consequently, have the potential to be in the HTMR residues depending upon where the metals partition in the recovery process. Improper operation of the HTMR process could result in shifts in partitioning of certain metals to products (e.g., metal alloys), intermediates requiring further smelting, slag, or other nonwastewater residues. HTMR processes are highly dependent, at least in part, upon parameters such as the operating temperature of the heat zones, composition of metals and other elements in the feed, zone residence times, flow rates, oxidation/reduction conditions, and mixing. (See also the BDAT background document for an explanation of how the 14 metals typically partition in an HTMR unit and the principles behind the partitioning.) There is also an inherent metallurgical interdependency between certain metals, based on their atomic structure. Such factors have led the Agency to the conclusion that all metal-bearing materials placed into the HTMR processes could affect the ultimate composition and leachability of metals from HTMR nonwastewater residues. The Agency believes, therefore, that regulation of all of the metals will provide a means of ensuring that the HTMR processes, when used to treat K061 wastes, are well-designed and well-operated (i.e., truly BDAT) with due consideration of all feed materials.

Third, since all 14 metals are potentially present in the treatment residues and are either hazardous to human health or the environment, EPA has developed treatment standards that will ensure the control of the leachability of all 14 metals. (See also the discussion of the regulation of zinc and vanadium, below.)

In general, commenters did not provide technical support or evidence to dispute that the fourteen metals should not be regulated. Rather, the commenters raised four major areas of concern regarding the regulation of all 14 metals: (1) Only the four previous regulated metals should be regulated because not all 14 metals are present and that EPA regulated only four as interim standards; (2) the four metals currently regulated in K061 wastes will control the leachability of the other metals; (3) HTMR does not treat all 14 metals; and (4) regulation of 14 metals will create an unnecessary analytical cost burden. The Agency disagrees with the commenters for the following reasons:

i. *Previous Regulation of Four Metals.*—The Agency is not restricting the treatment standards to just the four previously regulated metals for the following reasons: (1) Waste characterization data for untreated K061 wastes indicates the presence of all 14 metals in various concentrations; (2) additional information on how K061 wastes are generated indicate that all 14 metals also have a reasonably high potential for being present in any given untreated K061 waste; (3) the previous standards for the four metals were based on preliminary stabilization data rather than data from HTMR (which was determined to be BDAT); and (4) the previous standards for high zinc K061 wastes were only interim.

While the agency had previously promulgated a treatment standard of "No Land Disposal" based on the use of HTMR, interim standards based on stabilization were established until HTMR capacity could come on-line. These standards regulated only four metals in K061 wastes based on the available treatment data and were considered interim until the Agency could better examine performance data from HTMR units. At the time of the establishment of these interim standards, the Agency was unaware of the wide variety in metals composition K061 wastes and did not, at that time, establish stabilization standards for all 14 metals.

ii. *Control of Leachability.*—Based on the principles of the pyrometallurgical processes and the potential presence of all 14 metals in HTMR residues, the agency does not believe regulation of only the four previously regulated metals will control the leachability of all 14 metals from these residues. Different metals partition to different HTMR residues (or products) at different concentrations depending on the design and operating conditions of the HTMR process. (There are, however, some chemical and physical properties of the metals that allow prediction and control of partitioning.) As a result, regulation of all 14 metals is necessary in order to account for the variability in potential differences in partitioning. In addition, data does not support that the leachability of any one particular metal (or group of metals) can be used to monitor the leachability of all of the other metals.

In fact, differences in the treatability of metals have also been demonstrated by conventional stabilization processes. Arsenic, selenium, barium, mercury, and hexavalent chromium have been demonstrated, for example, to be particularly difficult to stabilize using simple cementitious reagents. In addition, many wastes require special recipes of stabilization reagents in order to achieve optimum stabilization. (HTMR does, however, appear to be less sensitive than stabilization to variations in concentrations and less dependent on the chemical composition of the wastes.)

iii. *HTMR as Treatment for Other Metals*—HTMR provides treatment of

all 14 metals through a combination of thermal recovery of metals (into products) and thermo-chemical stabilization (of residues). Treatment of the 14 metals is directly related to partitioning of the metals (based on the melting and boiling points of the metals and their compounds) as the waste is exposed to the high temperatures of the primary furnace. In general, HTMR provides treatment of the low-boiling point metals present in K061 by volatilization and subsequent recovery, while high-boiling point metals are thermo-chemically stabilized in HTMR residues such as slags. This thermo-chemical stabilization of the non-volatile metals occurs due to the high temperatures present, the relatively efficient mixing conditions, the oxidation-reduction conditions in the primary furnace, and the presence of other inorganic constituents that act, in effect, as stabilization reagents. In fact, many of the same conventional cementitious stabilization reagents such as calcium, silica, and alumina are also used as additives in some HTMR processes to achieve desirable HTMR operating conditions as well as to enhance desirable slag properties.

In confirmation, since most of the leachability data for all 14 metals from HTMR residues show very low, non-detectable levels in TCLP leachates, the Agency concludes that the HTMR process does indeed treat all of the toxic metals.

iv. *Potential Analytical Burden of 14 Metals*—Several commenters said that the Agency should regulate only those metals for which K061 is listed, because requiring analysis of the additional metals will be burdensome. EPA disagrees. First, eight of the metals are included in the determination that the material is not TC toxic (i.e., D004–D011) prior to disposal. In addition, five more are currently regulated to verify that the waste can be delisted. Moreover, it is the initial sample preparation that generally impacts the cost of metals analysis, rather than the instrumental analysis. In fact, most metals are analyzed using the same analytical instrument and the analysis for all 14 metals is performed simultaneously. As such, the addition of the other metals is not considered unduly burdensome.

d. *Regulation of Zinc and Vanadium.* Some commenters particularly stressed that zinc and vanadium should not be regulated. The Agency proposed to regulate zinc as an indicator of proper HTMR performance (i.e., indicating effective treatment). The Agency continues to believe that zinc is a good indicator of how effectively the system is recovering zinc. Poor zinc recovery seems to be related to poor maintenance of proper operating temperatures which can lead to less recovered material. This, in turn, will lead to more metals in the slag causing greater slag volumes and the potential for more metals to leach into the environment. This is significant because part of the reason EPA has selected HTMR as the BDAT technology is its resource recovery and volume reduction potential. The treatment standard for zinc helps ensure that these expected environmental benefits of using HTMR will occur. Improper removal of zinc can be, likewise, related to immobilization of hazardous constituents that is not optimum. For example, the Agency has data demonstrating that when zinc is concentrated and leaches at higher levels in the slag, other constituents, such as lead, are also concentrated and leach at higher levels.

In addition, zinc has been shown to be an aquatic toxin. Since surface runoff of treated K061 wastes could potentially enter waterways, the Agency is concerned that improper recovery of zinc could lead to unacceptable zinc leachate levels entering aquatic ecosystems. Disposal of such a waste might still be unprotective of human health and the environment under the second prong of the land disposal prohibition test, notwithstanding that Appendix VIII hazardous constituents are immobilized. See *NRDC* v. *EPA*, 907 F.2d 1146, 1171–72 (DC Cir. 1990) (dissenting opinion). EPA is also considering adding zinc to 40 CFR part 261 Appendix VIII, but is not doing so at this time. (It is also currently regulated under section 304 of the Clean Water Act as an aquatic toxin.)

Hence, EPA is finalizing a treatment standard for zinc as a means of ensuring that HTMR is operated optimally and thus achieves the statutory goals of immobilization of hazardous constituents, resource recovery and waste minimization.

With respect to vanadium, the Agency continues to believe that it is important to monitor vanadium concentrations in the TCLP leachate of K061 HTMR residues because there purportedly exist generators of K061 wastes containing high vanadium concentrations and certain vanadium compounds appear to be toxic. (Two vanadium compounds are specifically listed in Appendix VIII.) The Agency calculated a numerical standard for vanadium in K061 wastes based on a limited amount of detection limit data for vanadium; however, the Agency is promulgating the standard for vanadium as "reserved" for the following reasons: (1) Vanadium, when present in K061 wastes, will partition in an HTMR unit to the slag residues (thus, eventual regulation is appropriate); (2) the form of the vanadium as it leaches from the slags or other HTMR residues is unknown; however, it is expected to be toxic (again, eventual regulation is appropriate); (3) EPA currently has no leachate data for K061 wastes containing high levels of vanadium, but such wastes probably exist (thus, EPA's current data may not be representative of those wastes); (4) several commenters indicated that vanadium leaches at levels higher than those proposed by the Agency, but submitted no data to demonstrate this phenomena; and (5) commenters also indicated potential problems in detecting vanadium at the levels proposed. As a result of all of the above, the Agency has chosen to reserve the standard for vanadium until sufficient data and information become available. EPA also plans to resolve the issue of vanadium as a hazardous constituent in a later proceeding.

EPA notes further, however, that it is including a standard for vanadium as part of the generic exclusion from the derived-from rule for treated K061 dusts. See section II.C below. Since vanadium is a constituent of K061 that can make the waste hazardous, the Agency believes it appropriate (particularly because there is a verified health-based level for vanadium) to include this constituent within the exclusion. See RCRA section 3001(f). The Agency's present inability to establish a reliable treatment standard for this constituent in all treated K061 wastes is likewise no bar to including vanadium within the exclusion.

3. Development of Final Concentration-based Standards

a. *Data Used as the Basis of the Standards.* EPA has determined that it is appropriate to develop treatment standards for K061 based on the performance of all properly designed and operated HTMR processes that have been demonstrated to recover metals from high zinc K061 wastes or mixtures containing high zinc K061 wastes. Data that meet these requirements include: (1) Three TCLP leachate analyses for all 14 metals and nine TCLP leachate analyses for the eight TC metals in the slag (i.e., IRM) generated by the HRD Waelz kiln process; (2) 16 TCLP leachate analyses for all 14 metals in the slag generated by the IMS plasma furnace process; (3) one TCLP leachate analysis for 10 metals in the slag generated by the SKF plasma furnace process; and (4) three TCLP

leachate analyses for all 14 metals in the slag generated by the Inmetco electric furnace process.

b. *Calculation of the Standards.* These HTMR processes typically result in nonwastewater residues (e.g., slags) that leach relatively low levels (and in most cases nondetectable levels) of metals in a TCLP leachate. Commenters were concerned with the potential detection limit problems based on analytical equipment variability and TCLP digestion problems for the slag matrix. In addition, several commenters mentioned concerns about process variabilities due to different system configurations and feed variabilities caused by on-site recovery systems with sole-source feeds versus commercial recovery systems that blend many different K061 wastes.

The Agency has decided to develop treatment standards that reflect the performance of all of the various well-operated HTMR technologies. This results in limits higher than those proposed. However, given that all of these technologies are capable of achieving substantial immobilization of hazardous constituents (though not identical levels of performance), EPA believes this result is appropriate. EPA notes further that certain apparent differences in performance result from different reported detection limits. Thus, for many of the metals, all of the reported data shows non-detectable levels of metals in the HTMR slag, but different limits of detection due to different slag matrices (or perhaps due to differing levels of performance by analytic laboratories). In these cases, EPA used the highest analytic detection limits in order to accommodate performance of as many of the well-operated HTMR technologies as possible. (EPA believes that is appropriate for this rulemaking, but would not necessarily adopt the same approach for other treatment standards, since it might not always reflect best treatment performance.)

As a result, the final standards have been calculated using the following BDAT methodology. First, treatment standards were determined for each process individually. Then, the four sets of standards were compared to each other. Based on this comparison, the Agency selected the highest standard for each metal from each of the five processes to allow for process variability and detection limit difficulties. This approach derives limits achievable by all of the major HTMR technologies (and probably achievable by stabilization as well) since, properly operated, these technologies all appear capable of substantially reducing the mobility of metals in HTMR slags.

By establishing standards that are not based on a single optimized type of HTMR technology, the Agency recognizes that metal mobility in K061 residues may not be minimized to the maximum extent. However, EPA believes that the treatment standards developed today are appropriate. First, as noted above, these standards represent significant reduction in metal mobility. See section 3004(m) and 55 FR 6640, 641 n. 1 ("minimize" standard in section 3004(m) does not require the elimination of every conceivable threat posed by disposal of a hazardous waste). Second, a more stringent standard, based on a particular HTMR technology, would be a type of technology-forcing standard that Congress did not appear to have in mind in promulgating section 3004(m). 130 Cong. Rec. S 9178 (daily ed. July 25, 1984) (statement of Sen. Chafee); 56 FR at 12354. Third, the Agency notes that today's action is similar to standards developed for other wastes codes (notably the K048–K052 wastes) where the Agency based treatment standards on treatment technologies may not achieve complete destruction or removal, but nevertheless achieve substantial reductions of toxins. 55 FR at 22596.

EPA notes that some of the treatment standards have increased slightly over the existing interim standards based upon performance of stabilization. Thus, the standards for both lead and cadmium are slightly higher in today's rule. The Agency does not regard the small difference (hundredths of parts per million) as of significance, particularly because the actual reported HTMR values in most cases are non-detectable in any event. In addition, the value for nickel based on HTMR performance is considerably higher (over an order of magnitude) than the existing interim standard. However, the standard based on stabilization was transferred from another waste (because the only K061 wastes for which EPA had data contained levels of nickel too low to be treated (see K061 Background Document for the First Third rulemaking)), whereas the standard in today's rule reflects treatment of a high nickel K061 waste. EPA thus believes that the higher nickel level adopted today more accurately reflects treatment performance. In addition, EPA would probably have to create a further subcategory (high nickel/chromium K061) to accommodate treatment of high nickel/chromium wastes, which would result in a further and unnecessary complication of the rules, in the Agency's view. Thus, EPA does not believe that the higher nickel standards (or slightly higher lead and cadmium standards) promulgated today calls into question whether HTMR is the appropriate technology on which to base treatment standards.

To create an incentive for use of the more optimized HTMR technologies, however, the Agency is going forward with the proposed generic exclusion from the derived-from rule for residues meeting health-based standards (which for most of the metals are lower than the treatment standards). Based on the treatability data provided the Agency, slag residues from many of the newer processes should achieve these levels. The older processes, if properly operated (or possibly modified) also may be able to achieve these levels.

c. *Standards for K061 High Zinc Nonwastewaters.* The specific treatment standards are as follows:

BDAT TREATMENT STANDARDS FOR K061

[Nonwastewaters—High Zinc Subcategory]

Regulated constituent	Maximum for any single composite sample, TCLP (mg/l)
Antimony	2.1
Arsenic	0.055
Barium	7.6
Beryllium	0.014
Cadmium	0.19
Chromium (Total)	0.33
Lead	0.37
Mercury	0.009
Nickel	5.0
Selenium	0.16
Silver	0.30
Thallium	0.078
Vanadium	[1]
Zinc	5.3

[1] Reserved.

d. *Decision not to Adopt the Proposed High Chromium/High Zinc Subcategory.* In the proposal, EPA developed concentration-based treatment standards for K061 nonwastewaters in the high zinc subcategory based on HTMR as BDAT; however, EPA proposed to establish different treatment standards for these wastes based on their chromium/nickel content. While most of the high zinc subcategory K061 wastes are generated from the manufacturing of carbon steel and contain low concentrations of chromium and nickel, certain K061 wastes generated from stainless and specialty steel manufacturing, besides having a high zinc content, may also contain recoverable levels of chromium and nickel (i.e., containing equal to or greater than 1.5% total nickel and

chromium in combination). These wastes can be used to produce a remelt alloy containing nickel, chromium, and iron that can be used as a feedstock for stainless steel production.

In the proposal, the Agency stated that the HTMR process for recovering chromium/nickel from these K061 wastes may achieve a different level of treatment performance than the HTMR processes that are based primarily on the recovery of zinc from K061. EPA believed this was due to the differences in metal concentrations of the feed materials (in particular, with respect to zinc, nickel, and chromium) and the inherent differences in design and operation of the respective HTMR processes. Consequently, EPA proposed to divide the K061 high zinc subcategory into those wastes containing less than or equal to 1.5% nickel/chromium combination and those wastes containing greater than 1.5% nickel/chromium combination.

For the high zinc K061 wastes containing greater than 1.5% nickel/chromium combination, the Agency proposed to reserve the standards for nickel and chromium based on the assumption that the treatment performance would be different for these wastes and the lack of data demonstrating actual performance. The decision to divide high zinc K061 based on the chromium/nickel content has been reevaluated and the Agency has determined, based on data submitted during the comment period, that the chromium/nickel HTMR recovery process achieves a similar level of performance as the HTMR processes designed and operated to recover only volatile metals such as zinc, lead, and cadmium. In addition, as discussed earlier, EPA has adopted a nickel standard reflecting treatment performance of a high nickel/chromium waste by HTMR. For these reasons, the Agency does not believe it necessary to promulgate a further regulatory subcategory for K061, nor to reserve treatment standards for nickel and chromium. Thus, the final rule establishes standards for chromium and nickel applicable to residues from the treating of all high zinc K061 nonwastewaters.

4. Use of Other Technologies

The Agency received several comments indicating that other non-HTMR recovery processes exist that can be used to recover metals from K061 nonwastewaters in both the low zinc and high zinc subcategories. These processes use a series of primarily hydrometallurgical technologies, including chemical precipitation, ion exchange, and electrowinning. These non-HTMR recovery processes, along with stabilization processes, are not precluded from use by today's rule, provided the residues comply with the concentration-based standards prior to land disposal (assuming that land disposal occurs) and provided that these levels have not been achieved through the use of impermissible dilution.

C. Generic Exclusion of HTMR Nonwastewater Residues

1. Conditions for Exclusion

Residues from HTMR of K061 wastes in units identified as rotary kilns, flame reactors, electric furnaces, plasma arc furnaces, slag reactors, and rotary hearth furnace/electric furnace combinations or industrial furnaces (as defined in 40 CFR 260.10(6), (7), and (12)) are excluded from the hazardous waste regulations when disposed of in a Subtitle D unit, provided the residues meet the generic exclusion levels for all constituents, and provided the residues do not exhibit one or more of the hazardous waste characteristics. The reasons for specifying HTMR for the exclusion are provided in the section below called "Applicability to Other Types of Treated K061." In addition, the residues will be subject to the testing and tracking requirements described below.

The generic exclusion finalized today is the same action that was proposed; however, it was referred to as a "generic delisting" in the proposed rule. Today's action is more accurately termed a generic exclusion from the derived-from rule under § 261.3(c)(2). The term "delisting" is commonly used to describe the rulemaking process established under 40 CFR 260.20 and 260.22 to amend part 261 on a waste-specific basis (by facility). The decision to generically exclude nonwastewater HTMR K061 residues was based on the fact that the treatment process is well-defined and thus does not require an in-depth evaluation of each facility's process. The Agency is determining that the "derived-from" rule's presumption of hazardousness no longer should apply to HTMR K061 residues with toxic metals treated to specified levels. The Agency has made this determination after considering the factors in RCRA section 3001(f) and after satisfying the underlying philosophy of the delisting provisions.

The generic exclusion levels include all of the toxic metals that might reasonably be expected to be present in the nonwastewater residues from processing K061 wastes by HTMR. (This is consistent with RCRA section 3001(f) requiring EPA to evaluate whether constituents in addition to those for which a waste is listed could make a waste hazardous.) The Agency has evaluated the treatment standard levels using its vertical and horizontal spread (VHS) landfill model, which predicts the potential for groundwater contamination from wastes that are landfilled. See 50 FR 7882, 50 FR 48896, and the RCRA public docket for this notice for a detailed description of the VHS model and its parameters. Using the maximum contaminant levels (MCLs) or action levels and a waste volume of greater than 8,000 cubic yards per facility (a worst case estimate for purposes of the VHS model), EPA determined the following "generic" concentration levels which it considers safe to human health and the environment.

CONCENTRATION LEVELS OF K061 HTMR RESIDUALS FROM VHS MODELING

[Nonwastewaters]

Constituent	Maximum for any single composite sample, TCLP (mg/l)
Antimony	0.063
Arsenic	0.32
Barium	6.3
Beryllium	0.0063
Cadmium	0.032
Chromium (total)	0.63
Lead	0.095
Mercury	0.013
Nickel	0.63
Selenium	0.32
Silver	0.32
Thallium	0.013
Vanadium	1.26

EPA notes that the BDAT standards and VHS-based levels are not identical, since each set was calculated for a different purpose: The BDAT standards are technology-based levels, while the VHS results derive from health-based modeling. In order to be eligible for the generic exclusion, the residues must meet the following concentration levels:

GENERIC EXCLUSION LEVELS OF K061 HTMR RESIDUES

[Nonwastewaters]

Constituent	Maximum for any single composite sample, TCLP (mg/l)
Antimony	0.063
Arsenic	0.055
Barium	6.3
Beryllium	0.0063
Cadmium	0.032

GENERIC EXCLUSION LEVELS OF K061 HTMR RESIDUES—Continued

[Nonwastewaters]

Constituent	Maximum for any single composite sample, TCLP (mg/l)
Chromium (total)	0.33
Lead	0.095
Mercury	0.009
Nickel	0.63
Selenium	0.16
Silver	0.30
Thallium	0.013
Vanadium	1.26

For five of these constituents (arsenic, chromium, mercury, selenium, and silver), the technology-based treatment standards are slightly lower than the exclusion levels based on VHS modeling. EPA does not regard these values as significantly different, however (the difference ranges from .003 ppm (mercury) to .3 ppm (chromium)). Given that the Agency is excluding these wastes generically, rather than after a more individualized examination as part of a facility-specific delisting, EPA believes that it is prudent to use the slightly lower value for this exclusion. We note that today's action is consistent with the Agency's position in the Third Third rule, where it maintained that land disposal prohibitions can apply to wastes that are hazardous when they are generated, even if they are not hazardous when disposed of (see 55 FR 22652–22653). However, EPA is not invoking that principle to justify its decision here, given that the exclusion is generic and the values practically equivalent in any case.

We thus do not view the final rule as presenting the issue raised in comments of exclusion levels being based on technology-based levels. As just discussed, the final exclusion levels are either generated directly from a health-based model, or are so close to those levels as to be warranted for a generic exclusion.

EPA received numerous comments related to the general proposal of establishing generic waste exclusions. One commenter recommended that the Agency establish generic exclusion levels for all listed hazardous wastes, not just the nonwastewater HTMR K061 residues. The Agency notes that it has modified the definition of solid and hazardous wastes in the past, and, in particular, has modified the "derived-from" rule of 40 CFR 261.3. During the development of the BDAT standards for nonwastewater HTMR K061 residues, the Agency recognized that these wastes do not always contain significant levels of leachable inorganic constituents. As a result, the Agency decided to couple the generic exclusion concept with the part 268 provisions. The Agency may investigate other candidate waste types and modify the "derived-from" rule in the future, on a waste-specific basis, for wastes which warrant exclusion.

Another issue involved the decision to use Toxicity Characteristic Leaching Procedure (TCLP) rather than Extraction Procedure (EP) leach test values for the exclusion. One commenter questioned whether EPA was contemplating revisiting the existing exclusions, not only for K061 but for other metal-bearing wastes, to require TCLP testing to ensure regulatory and environmental consistency. The Agency is currently considering revisiting facility-specific exclusions where petitioners are required to test waste prior to disposal as nonhazardous. In addition, the Agency notes that it currently requires that petitioners provide TCLP data in lieu of EP toxicity testing when submitting new petitions. However, any decision to require TCLP testing for existing exclusions based on EP data will be addressed in a separate Federal Register notice.

One commenter urged EPA to abolish the concept of a generic exclusion under 40 CFR 261.3 for nonwastewater HTMR K061 waste as EPA did not evaluate all of the factors involved in its own delisting protocols as part of the considerations for the exclusion. The commenter believed that EPA should separate the actions related to a generic exclusion from this land disposal restrictions rule. As discussed previously, today's action is not a "delisting," as the procedural requirements for delisting apply to persons seeking exclusion of a waste at a particular generating facility. However, in response to the commenter's concern about the Agency's assessment of the potential hazard of these wastes, the Agency believes that it has sufficiently assessed those hazards using the VHS landfill model. Furthermore, the Agency is establishing exclusion levels for all constituents that might make the waste hazardous. The Agency also believes that it has sufficient data demonstrating that nonwastewater HTMR K061 residues are not hazardous if they meet the specified conditions.

The Agency received comments stating that the VHS model greatly exaggerates potential ground water contamination. One commenter felt that the assumptions used in the model are all conservative and that, although some of the assumptions may not represent absolute worst-case conditions when considered individually, in total the model represents an extreme worst case. As a result, the commenter believed that exclusion levels calculated through the application of the VHS model's minimum dilution factor will be unduly conservative. Another commenter believed that delisting the K061 residue using solely the VHS model does not fully acknowledge the persistence and bioaccumulation potential of toxic metals (from the K061 residue) in the environment.

The Agency disagrees with these commenters. As modified, the generic exclusion requires facilities managing nonhazardous HTMR residues to dispose of the material in a Subtitle D disposal unit. As such, the Agency believes that it is appropriate to estimate the transport of contaminants using a ground water model that evaluates disposal conditions that could be encountered in a Subtitle D disposal setting, such as the VHS model. In applying the model, the Agency makes a variety of assumptions to account for a reasonable worst-case disposal scenario. The VHS model assumes that the waste is disposed in an unlined landfill (a normal Subtitle D situation). The model mathematically simulates the migration of toxicant-bearing leachate from the waste into the uppermost aquifer, and the subsequent dilution of the toxicants due to dispersion within the aquifer. The Agency uses this model to predict the maximum concentration of the diluted toxicants at a hypothetical receptor well (or compliance point) located 500 feet from the disposal site. These are all situations that could arise in Subtitle D disposal settings. The VHS model was developed to be conservative, and because it is used as an evaluation tool to identify wastes to be excluded from regulation as hazardous, the Agency believes that its use is justified here.

Six commenters believed that the dilution and attenuation factor (DAF) employed by the Agency is inappropriately conservative. For the reasons just stated, the Agency believes a DAF of 6.3 is justified and necessary to ensure that wastes meet the Agency's levels of concern prior to being disposed of as nonhazardous.

The Agency notes that the generic exclusion levels for lead were lowered to reflect the new action level of 0.015 mg/1 contained in an Office of Drinking Water regulation (56 FR 26460) which was promulgated after the proposed K061 rule. Several commenters believe

that it is inappropriate to base the maximum allowable exclusion level on the new action level for lead, instead of the MCL. The commenters noted that the recent lead rule did not immediately revoke the existing MCL, and allows the MCL to remain effective until November 9, 1992. Furthermore, they argue that the lead action level of 0.015 mg/l is not an enforceable, health-based standard, citing EPA's preamble language to the rule that states that the action level is not equivalent to an MCL. Commenters also noted that past delisting evaluations have used existing MCLs as the bases for delisting decisions, and that the current MCL of 0.05 mg/l should be used in today's rulemaking.

The commenters are correct in stating that delisting evaluations have used – MCLs to derive acceptable delisting levels. However, in the absence of formal MCLs, the Agency has also used other appropriate health-based levels to establish delisting levels. In the absence of a new MCL for lead, the Agency believes that prudence requires that the exclusion level be established using the more conservative action level of 0.015 mg/l. EPA established the new treatment standard for lead instead of a MCL because, as EPA concluded in the preamble to the final rule there is no apparent threshold for various health effects associated with lead. Given that the Agency's goal is to minimize lead exposure among sensitive populations, however, the treatment standard with an action level was established. While the action level is not a formal MCL, EPA stated in the preamble to the lead rule that the level of 0.015 mg/l is "associated with substantial public health protection." (See 56 FR 26477.)

While the commenters are also correct in stating that the existing lead MCL of 0.05 mg/l will remain in effect until November 9, 1992, the Agency believes the use of this level in setting the exclusion level would be inappropriate. The effective date for the action level and accompanying treatment standard for lead were delayed in order to allow public drinking water systems sufficient time to comply with this new rule. The Agency does not believe that to establish exclusion levels using an old MCL that will soon be superseded by a more stringent standard is sufficiently protective of public health.

2. Product Uses of Residues From K061 Treatment

The generic exclusion of K061 residues in this rule applies only to residues which are disposed of in Subtitle D units (i.e., landfills or piles). As EPA noted at proposal, the majority of these slags are not landfilled, but rather are used in a manner constituting disposal as road base material, or (less often) as an anti-skid material (56 FR 15024). EPA solicited comment on methods to evaluate exposures from road base and anti-skid uses. Several commenters believed that the reliance on the VHS model for analyzing HTMR residues is inappropriate and unprotective when the material is used as an anti-skid or road bed material, since not all potential exposure pathways are evaluated. On the other hand, one commenter believed that the use of the VHS model greatly exaggerates the degree of ground water contamination that could result from use of HTMR residues as a road base material.

Although EPA received comments concerning possible risks from road uses (in particular, inhalation due to improper handling during transportation, and exposure to lead accumulation in dust and surface soils), no data, methods, or models were submitted. The Agency has decided that its regulatory tools for evaluating road base and anti-skid uses are too uncertain for the Agency to make a final decision at this time—particularly given the very short time-frame of this rulemaking—as to whether residue used as road base or anti-skid material should be excluded. The VHS model evaluates possible risks posed by landfill disposal. It may also be suitable for evaluating residue used as a road base material, since this situation may be viewed as similar to (or more protective than) a capped landfill. The Agency has not had time to make a full technical assessment of this point. The VHS model alone may not be fully suitable for evaluating the safety of slag used as an anti-skid material, because this apparently uncontrolled use may present exposure pathways (i.e., airborne inhalation and surface runoff) that the model does not consider. Thus, the exclusion levels apply only for those modes of management that EPA currently feels confident in evaluating with the VHS model, namely disposal in a land disposal unit.

This case differs from other delistings in that EPA has never before evaluated a situation where the waste would be used in a manner constituting disposal, raising the concern that the VHS (or other groundwater model) no longer simulates a worst-case scenario. (EPA notes in addition that it has considered air blown dust exposure pathways in other delistings, but views the situation presented in today's action as different. Previous situations involved possible exposures from air-born losses in transit whereas today's action potentially involves continual deposit of waste over a wide expanse of road systems.) Thus, EPA does not view today's action as calling into question determinations made in earlier, site-specific delistings.

Under current regulations, if a hazardous waste is used in a manner constituting disposal, it is exempt from further regulation, provided it undergoes a chemical reaction so as to be inseparable by physical means, and provided it meets the land disposal restrictions treatment standards for each hazardous constituent that it contains (40 CFR 266.20). Thus, under today's rule, such practices as use of the HTMR residue as road base or anti-skid material are not immediately prohibited (provided the residue meets the treatment standard). EPA intends shortly to propose amendments to 40 CFR 266.20 that may, if ultimately finalized, require further controls on all hazardous waste-derived products used in a manner constituting disposal, including a demonstration by the producer of such materials that the materials are used legitimately and safely. EPA intends to further evaluate the uses of K061 HTMR residue as part of that proceeding.

3. Tracking Requirements

The generic exclusion for K061 HTMR residues that meet the exclusion levels (in part 261) and treatment standards (in part 268), and that do not exhibit any hazardous characteristics, is limited, as already discussed, to such waste that is disposed of in Subtitle D units. Because K061 HTMR residues are hazardous at the point of initial generation, EPA believes that tracking and certification are needed to ensure proper handling. A modified tracking system for the waste, like that promulgated in the Third Third rule for characteristic wastes that have met the treatment standards and exhibit no hazardous characteristics (55 FR 22662–22664), will apply. Under this tracking system, a notification and certification must be sent to the appropriate EPA Regional Administrator or State authorized to implement the part 268 requirements for each shipment sent to a Subtitle D unit.

4. Testing Requirements

The land disposal restriction program imposes site-specific testing requirements in order to verify that regulatory requirements have been satisfied. The Agency proposed that, for the purpose of determining eligibility for the generic exclusion, testing of residues from HTMR of K061 be required at a frequency specified in the waste

analysis plans of treatment facilities. The Agency solicited comment on whether more detailed testing requirements are necessary. Some commenters argued that quarterly testing of composite samples of nonwastewater residues resulting from HTMR processing of K061 should be sufficient to demonstrate compliance with the exclusion criteria; other commenters indicated that a more frequent and detailed testing regime than occurs under waste analysis plans was necessary. Various commenters recommended monthly, weekly, or daily testing.

The Agency has decided to require that treatment facilities which wish to meet the exclusion requirements must test treated wastes at a frequency specified in their waste analysis plan in order to determine whether they have met the exclusion levels. See 40 CFR 268.7(b) and 55 FR 22669. In the case where treatment is performed at the generator's site is a way not requiring a permit, testing is required at a frequency specified in the self-implementing waste analysis plan required by 40 CFR 268.7(a)(4). However, at a minimum, a facility's waste analysis plan (or a generator's self-implementing waste analysis plan) must specify that composite samples of the K061 HTMR slag residues be collected and analyzed quarterly and/or when the process or operation changes (see 40 CFR 264.13(a)(3) and 265.13(a)(3)). The Agency believes that it is appropriate to allow the frequency of testing beyond the quarterly minimum to be determined in the waste analysis plan, taking into account facility-specific factors such as waste types, waste variability, quantity, batch size, and type of treatment unit. The Agency believes that permit writers will consider these factors when establishing testing conditions in the waste analysis plans.

5. Applicability to Other Types of Treated K061

The exclusion discussed above applies only to those nonwastewater residues generated by HTMR processes, and not to others such as hydrometallurgical processes or stabilization. The Agency has insufficient data to fully evaluate the residues from hydrometallurgical processes; however, the limited available information indicates a high leachability. Moreover, given the Agency's current paucity of information, EPA has no idea what an appropriate testing regime for residues from hydrometallurgical processes would be, even assuming that these residues could meet the exclusion levels. EPA thus believes it unwarranted to make residues from hydrometallurgical recovery processes eligible for this generic exclusion at this time.

There are several reasons for not excluding stabilized residues generically. The HTMR residues demonstrate consistent leaching behavior whereas stabilized matrices are quite variable. The chemical bonding that occurs in the high temperature and oxidation/reduction conditions within the HTMR units is inherently different than the bonding that forms the basis of cementitious and pozzolanic stabilization. In addition, the kinetics of the reaction forming the bonds in these HTMR processes are superior to the kinetics of bond formation in cementitious reactions. (Cement is not typically considered set until at a minimum of 72 hours and often not considered fully cured until after 28 days.) Stabilization has also been documented as a process that is highly matrix-dependent and prone to chemical interferences. (Data in support of this conclusion is located in the background documents to the First, Second, and Third Third rules.) Most commercial stabilization facilities have to develop special mixes for each waste type by selecting additives that will enhance curing time and/or product integrity (often measured by comprehensive strength).

Another reason for not allowing stabilized residues to be generically excluded is the possibility of impermissible dilution, which must be considered on a case-by-case basis with stabilization, but not with HTMR. Hence, facility-specific delistings are preferred for stabilized wastes so that the Agency can evaluate waste-to-binder and waste-to-waste ratios and make a determination about treatment versus dilution. Finally, the Agency believes that HTMR is a preferred technique for managing the K061 waste over stabilization technologies, in light of its resource recovery potential, and in light of the differences in volumes of treated wastes. Stabilization generally increases volumes, while HTMR generally decreases volume. Thus, the Agency does not believe it warranted to develop a somewhat technically sketchy generic exclusion for stabilization.

EPA notes that it is not precluding the use of stabilization by today's rule, and that facility-specific delisting remains an option for stabilized K061 wastes. However, due to the inherent differences between HTMR and stabilization stated above and the fact that insufficient data currently exists to propose a generic exclusion for stabilized K061 wastes, the Agency has determined that the generic exclusion levels are not applicable to stabilized K061 residues. The Agency believes that more individualized consideration of stabilization is warranted before residues from the process are delisted.

6. Regulatory Status of Certain K061 Nonwastewater Residues From HTMR

A number of commenters raised the issue of the regulatory status of nonwastewater residues from HTMR processes. Commenters suggested that the Agency approach the issue as an interpretation of the existing federal rules regarding recycling. We have responded to this point above. Other commenters questioned the regulatory status of other side streams, and urged that one side stream in particular, a dross from the splash condenser in an HTMR process which is sent off-site for zinc recovery or re-processed on-site in the HTMR process, not be classified as a solid waste.

Under the federal regulations, hazardous wastes destined for reclamation remain classified as solid and hazardous wastes until reclamation is completed. Reclamation is normally incomplete until the end-product of the process is fully recovered. 50 FR at 633, 634, 655. The line the Agency has traditionally drawn between partially and fully reclaimed material when thermal metal recovery is involved is that secondary materials remain wastes until smelting is completed. *Id.* at 634 (recovered metals only needing to be refined (the processing step following smelting) are products, not wastes). This interpretation is consistent with RCRA's cradle-to-grave mandate by retaining authority until a usable metal is recovered. Cf. *API* v. *EPA*, 906 F.2d at 741.

The rules also provide for a variance from solid waste classification for materials that have been partially but not fully reclaimed. 40 CFR 261.30(c). Criteria for granting a variance include the degree of processing that the material has undergone and the degree of further processing required, the value of the material after it has been reclaimed, the degree to which the initially-reclaimed material is like an analogous raw material, the extent to which an end market for the material is guaranteed, and (perhaps most importantly), the extent to which the initially-reclaimed material is handled to minimize loss. 40 CFR 260.31(c).

Applying these rules to the dross from HTMR splash condensers, EPA has decided to amend its rules by excluding from Subtitle C jurisdiction the splash

condenser dross residue (hereafter referred to as SCDR) generated by certain HTMR processes. This material is specifically generated as the non-product skimming from the splash condenser, along with recovered zinc and lead meeting Western grade zinc metal specifications (i.e., 98% pure metals), which are products under the rules (see § 261.3(c)(2) final sentence). The dross is presently a solid waste because it is partially but not fully reclaimed (i.e., it still requires smelting or other recovery before a usable metal is extracted), and thus would remain a K061 waste unless it is excluded from the rules. See 40 CFR 261.2(a)(1) and 56 FR at 7144. Based on public comment and corroborating information contained in the record for today's rule, the SCDR is collected directly from the splash condenser and drummed. It is then stored for short periods (not exceeding two weeks) and sold to a thermal zinc processing facility where it is used as a source of zinc, or reused on-site in the HTMR process, or reprocessed by HTMR on-site. (The SCDR normally contains 50–60% zinc.) At the thermal processing facility (where SCDR is shipped off-site), the drums are stored indoors in a secure manner (on concrete flooring, and with controls against airborne migration). The material is then processed for recovery by crushing, and, in combination with other feedstocks, grinding, and by thermal recovery of zinc.

The SCDR stream is small in volume. In addition, most of the toxic metals that originate in the K061 do not partition to the SCDR: Approximately 90% partition to zinc and lead products or to baghouse dusts. Those toxic metals remaining in the SCDR have reduced mobility from the original K061. The SCDR does not exhibit a characteristic of hazardous waste. SCDR is also changed in physical form from the original K061. It is no longer a dust, but rather is a solidified matrix.

The Agency evaluated the material against the criteria for determining whether a waste that is partially but not fully reclaimed should still be classified as a solid waste (40 CFR 260.31(c)). Although these criteria were established for a variance determination, EPA believes that they are relevant in determining whether this material should be considered to be "discarded" within the meaning of § 261.2(a)(1). The Agency has received adequate information in this case to exclude the material by rule. In particular, the Agency finds that the SCDR results from substantial processing (as shown by the volume reduction, partitioning of toxic metals to other outputs of the process, change in physical form, and reduction in mobility of toxic metals) (see § 260.31(c)(1)); that the material is sold for value (or reprocessed on-site to recover high concentrations of zinc) (see § 260.31(c)(2)); that the material contains zinc concentrations comparable to those of other non-waste secondary sources of zinc (and more zinc than natural ores) (see § 260.31(c)(3)); that an end market for the material appears assured (see § 260.31(c)(4)); and that it is handled safely up to the point of final reclamation (see § 260.31(c)(5)).

Based on these factors, the Agency has decided to exclude the SCDR from RCRA jurisdiction when it is utilized as a source of zinc in zinc recovery operations, provided it is shipped in drums (if it is sent off-site) and that there is no land disposal of the material before it is recycled. Thus, for example, the material remains a solid waste if it is stored in piles on the land. In such a case, it would be "part of the waste disposal problem," and hence discarded. *American Mining Congress* v. *EPA*, 907 F.2d at 1186. In addition, in order for this exclusion to be implementable and to serve as a check against mishandling, EPA is interpreting current rules to require that the HTMR facility maintain a one-time notice in its operating record or other files stating that the SCDR is generated, then excluded, and what its disposition is. See § 268.7(a)(6), 56 FR 3878.

D. Capacity Discussion

In the proposed rule to establish treatment standards under the land disposal restrictions for high zinc K061 wastes, EPA determined that sufficient capacity exists to treat these wastes and requested comments on its capacity analysis. EPA notes that the inquiry is in some ways academic, given that the time for granting national capacity variances for K061 ended in August 1990. See RCRA section 3004(h)(2). Nevertheless, the information on capacity should be useful to the regulated community and has a bearing on whether portions of today's rule are adopted pursuant to HSWA; therefore, we are presenting it here. It also has some bearing on whether there is any need to perpetuate the existing standards based on stabilization.

Commenters to the proposed rule focused on HTMR capacity. The Agency received comments suggesting that there may not be sufficient HTMR capacity to treat the volumes of high zinc K061 that are generated. Other commenters submitted information to EPA suggesting that other treatment technologies in addition to HTMR (stabilization and extractive metallurgy) can meet the treatment standards for high zinc K061. While the Agency has determined that HTMR is BDAT for high zinc K061, today's rule does not preclude the use of other treatment technologies that can meet the treatment standards established for this waste. For today's rule, the Agency has confirmed the generation volume of high zinc K061 and the available treatment capacity for these wastes.

1. Waste Generation

In the proposed rule, EPA estimated that approximately 500,000 tons of high zinc K061 are generated annually. EPA contacted Horsehead Resource Development Company (HRD) and the American Iron and Steel Institute (AISI) to obtain estimates of the annual generation of high zinc K061. HRD is the primary commercial facility that is currently recovering zinc from K061 wastes in HTMR units. HRD's most recent estimate is that the national generation of high zinc K061 will be approximately 415,000 tons in 1991. AISI, a trade association representing a substantial portion of the generators of all K061 wastes, provides a different estimate of K061 generation. Based on steel production in 1989, AISI estimates that approximately 285,000 tons of high zinc K061 were generated in 1989, which is consistent with data from the TSDR Survey. In this capacity analysis, EPA is using the higher and more recent estimate of 415,000 tons of annual generation of high zinc K061.

2. Current Management Practices

The Agency has received data indicating that most high zinc K061 (about 90 percent) that is treated currently goes through HTMR. The volume of high zinc K061 being stabilized and subsequently land disposed is thus quite low. The Agency believes that this may be due to the existing incentives to recycle high zinc K061. Stabilization and landfilling costs are high, and some states have provided tax incentives not to land dispose of hazardous wastes. Thus, the generators of high zinc K061 that are treating their wastes are doing so primarily by recycling their wastes through HTMR.

3. Available Capacity

In the proposed rule, EPA estimated that the total available HTMR capacity (both commercial and non-commercial) was 553,000 tons per year. The Agency received comments indicating that some of this capacity may not be available and that a substantial portion of HTMR capacity is used to treat low zinc K061.

The Agency has confirmed that approximately 550,000 tons of HTMR capacity are currently available to recover zinc through HTMR. However, the bulk of this capacity comes from older processes that may not be capable of achieving the better levels of performance characteristic of more recent HTMR.

Michigan Disposal, Inc. submitted a comment to EPA claiming that chemical fixation and stabilization techniques can meet the K061 treatment standards. Michigan Disposal's current stabilization capacity for high zinc K061 is approximately 100,000 tons per year. In addition to HTMR and stabilization, extractive metallurgy technologies are available to recover zinc from K061 wastes. Encycle submitted a comment to the Agency showing that their metal recovery process can successfully recover zinc from K061 wastes. Encycle's current extractive metallurgy treatment capacity is approximately 30,000 tons per year. No commenter submitted data to challenge the claim that technologies other than HTMR can meet the treatment standards for high zinc K061.

4. Capacity Implications

Based on the information presented above, sufficient HTMR capacity exists to handle the 1991 demand for zinc recovery from K061 wastes, and excess stabilization and extractive metallurgy capacity is also available. Therefore, the Agency has determined that there is sufficient capacity to handle the volumes of high zinc K061 requiring treatment. However, if substantial portions of HTMR capacity become unavailable, the situation would differ. This point is relevant in determining whether the exclusions in today's rule are promulgated pursuant to HSWA authority.

III. State Authority

A. Applicability of Rule in Authorized States

Under section 3006 of RCRA, EPA may authorize qualified States to administer and enforce the RCRA program within the State. Following authorization, EPA retains enforcement authority under sections 3008, 3013, and 7003 of RCRA, although authorized States have primary enforcement responsibility. The standards and requirements for authorization are found in 40 CFR part 271.

Prior to HSWA, a State with final authorization administered its hazardous waste program in lieu of EPA administering the Federal program in that State. The Federal requirements no longer applied in the authorized State, and EPA could not issue permits for any facilities that the State was authorized to permit. When new, more stringent Federal requirements were promulgated or enacted, the State was obliged to enact equivalent authority within specified time frames. New Federal requirements did not take effect in an authorized State until the State adopted the requirements as State law.

In contrast, under RCRA section 3006(g), new requirements and prohibitions imposed by HSWA take effect in authorized States at the same time that they take effect in nonauthorized States. EPA is directed to carry out these requirements and prohibitions in authorized States, including the issuance of permits, until the State is granted authorization to do so. While States must still adopt HSWA-related provisions as State law to retain final authorization, HSWA applies in authorized States in the interim.

B. Effect on State Authorizations

Today's final rule for treatment standards is finalized pursuant to section 3004(d) through (k) and (m) of RCRA. Therefore, it will be added to Table 1 in 40 CFR 271.1(j), which identifies the Federal program requirements that are promulgated pursuant to HSWA and take effect in all States, regardless of their authorization status. As noted above, EPA will implement today's rule in authorized States until their programs are modified to adopt these rules and the modification is approved by EPA. Because the rule is finalized pursuant to HSWA, a State submitting a program modification may apply to receive either interim or final authorization under RCRA section 3006(g)(2) or 3006(b), respectively, on the basis of requirements that are substantially equivalent or equivalent to EPA's. The procedures and schedule for State program modifications for either interim or final authorization are described in 40 CFR 271.21. The deadline by which the States must modify their programs to adopt today's rule is July 1, 1993. It should be noted that HSWA interim authorization will expire on January 1, 1993 (see 40 CFR 271.24(c)).

An issue arises as to whether the generic exclusion from the derived-from rule and the conditional exclusion from being a solid waste for splash condenser dross residue in the rule are adopted pursuant to HSWA. EPA views this entire rule, including the exclusions, as a HSWA regulation because it is a necessary part of the process of setting prohibitions and treatment standards for K061 wastes. The Agency has determined that the HTMR process is BDAT for K061 wastes. Comments have indicated persuasively that without relief from the derived-from rule and solid waste status a number of HTMR processes will not be commercially viable. This is particularly true of the newer, optimized HTMR processes that are capable of generating residues below the generic exclusion levels. See, e.g., Comments of International Mill Service, Inc., pp. 49–57. The Agency believes it important to assure existence of the truly best available technology, namely the newer, optimized HTMR operations, to process K061 wastes. The generic exclusion from the derived-from rule and conditional exclusion from being a solid waste is a necessary step in assuring existence of this optimized capacity, and so is an integral part of the whole prohibition/treatment standard process. Consequently, the Agency views these exclusions to be adopted pursuant to HSWA.

Section 40 CFR 271.21(e)(2) requires States that have final authorization to modify their programs to reflect Federal program changes and to submit the modification to EPA for approval. The deadline by which the State must modify its program to adopt this regulation will be determined by the promulgation of the final rule in accordance with 40 CFR 271.21(e). These deadlines can be extended in certain cases (see 40 CFR 271.21(e)(3)). Once EPA approves the modification, the State requirements become Subtitle C RCRA requirements.

Authorized States are only required to modify their programs when EPA promulgates Federal regulations that are more stringent or broader in scope than the existing Federal regulations. For those Federal program changes that are less stringent or reduce the scope of the Federal program, States are not required to modify their programs. This is a result of section 3009 of RCRA, which allows States to impose regulations in addition to those in the Federal program. EPA has determined that the generic exclusion and the conditional exclusion for splash condenser dross residue are less stringent or reduce the scope of the Federal program. Therefore, authorized States are not required to modify their programs to adopt regulations that are equivalent or substantially equivalent.

States with authorized RCRA programs may already have requirements similar to those in today's rule. These State regulations have not been assessed against the Federal regulations being finalized today to determine whether they meet the tests

for authorization. Thus, a State is not authorized to implement these requirements in lieu of EPA until the State program modification is approved. Of course, States with existing standards may continue to administer and enforce their standards as a matter of State law. In implementing the Federal program, EPA will work with States under agreements to minimize duplication of efforts. In many cases, EPA will be able to defer to the States in their efforts to implement their programs rather than take separate actions under Federal authority.

States that submit official applications for final authorization less than 12 months after the effective date of these regulations are not required to include standards equivalent to these regulations in their application. However, the State must modify its program by the deadline set forth in 40 CFR 271.21(e). States that submit official applications for final authorization 12 months after the effective date of these regulations must include standards equivalent to these regulations in their application. The requirements a State must meet when submitting its final authorization application are set forth in 40 CFR 271.3.

IV. Regulatory Impact

A. Executive Order 12291

Executive Order 12291 requires that the regulatory impact of potential Agency actions be evaluated as part of the process of developing regulations. In addition, Executive Order 12291 requires that regulatory agencies prepare a Regulatory Impact Analysis in connection with major rules (Section 3). Major rules are defined in section 1(b) as those which are likely to result in an annual effect on the economy of $100 million or more, a major increase in costs or prices for consumers or individual industries, or significant adverse effects on competition, employment, investment, productivity, innovation, or international trade.

Today's rule establishes treatment standards for a waste originally regulated in the First Third land disposal restrictions rule (53 FR 31162). The Regulatory Impact Analysis (RIA) for the First Third rule costed the K061 high zinc wastes based on HTMR. The post-regulatory cost for a volume of K061 high zinc waste of approximately 172,000 tons was estimated to be $58 million per year (1987 dollars).

Today's rule establishes numerical treatment standards based on HTMR. Currently, due to construction of additional recovery process capacity, the Agency has determined that there is adequate HTMR capacity for K061 high zinc wastes. The Agency estimates that 415,000 tons of K061 high zinc are generated each year. Of this volume, the Agency estimates approximately 90% to be undergoing treatment by use of HTMR, with the remaining 10% going to stabilization.

Therefore, in the worst case assumption, only 10% of high zinc K061 would be affected by today's rule. If the 10% annual generation portion of high zinc K061 which is now being treated by stabilization was to be treated by HTMR, the incremental cost of this change is estimated to be $1 million per year. This alteration in management practices represents the most severe cost scenario which could be incurred as a result of this rule. However, generic exclusion of the residue from the HTMR process will spare the industry Subtitle C disposal costs; this savings has not been reflected in the annual incremental cost estimate provided above, and would make the cost lower than the $1 million estimated. Therefore, it is estimated that this rule will not impose a large cost upon industry, and is estimated to be a minor rule according to Executive Order 12291.

This rule was submitted to the Office of Management and Budget (OMB) for review as required by Executive Order 12291.

B. Regulatory Flexibility Act

Pursuant to the Regulatory Flexibility Act, 5 U.S.C. 601 et seq., whenever an agency is required to issue a general notice of rulemaking for any final rule, it must prepare and make available for public comment a Regulatory Flexibility Analysis which describes the impact of the rule on small entities (i.e., small business, small organizations, and small government jurisdictions). The Administrator may certify, however, that the rule will not have a significant economic impact on a substantial number of small entities. Since the rule allows the regulated community to continue to use existing management practices, and in the worst case scenario only affects 10% of high zinc K061 waste, the Administrator certifies that this regulation will not have a significant economic impact on a substantial number of small entities, and therefore, does not require a Regulatory Flexibility Analysis.

C. Paperwork Reduction Act

The information collection requirements in this rule were promulgated in previous land disposal restriction rulemakings and approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act, 44 U.S.C. 3501 *et. seq.*, and have been assigned OMB control number 2050–0085. No new information collection requirements are being promulgated today.

Send comments regarding any aspect of this collection of information to Chief, Information Policy Branch, PM–223Y, U.S. Environmental Protection Agency, 401 M St., SW, Washington, DC 20460; and to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503, marked "Attention: Desk Officer for EPA."

V. List of Subjects in 40 CFR Parts 261, 268, and 271

Administrative practice and procedure, Designated facility, Environmental protection, Hazardous materials, Hazardous materials transportation, Hazardous waste, Intergovernmental relations, Labeling, Packaging and containers, Penalties, Recycling, Reporting and recordkeeping requirements, Waste treatment and disposal.

Dated: August 8, 1991.

F. Henry Habicht,

Acting Administrator.

For the reasons set out in the preamble, title 40, chapter I, of the Code of Federal Regulations is amended as follows:

PART 261—IDENTIFICATION AND LISTING OF HAZARDOUS WASTE

1. The authority citation for part 261 continues to read as follows:

Authority: 42 U.S.C. 6905, 6912(a), 6921, 6922, and 6938.

2. In § 261.3 paragraph (c)(2)(ii)(C) is added to read as follows:

§ 261.3 Definition of hazardous waste.

* * * * *

(c) * * *

(2) * * *

(ii) * * *

(C) Nonwastewater residues, such as slag, resulting from high temperature metals recovery (HTMR) processing of K061 waste, in units identified as rotary kilns, flame reactors, electric furnaces, plasma arc furnaces, slag reactors, rotary hearth furnace/electric furnace combinations or industrial furnaces (as defined in 40 CFR 260.10 (6), (7), and (12)), that are disposed in subtitle D units, provided that these residues meet the generic exclusion levels identified below for all constituents, and exhibit no characteristics of hazardous waste. Testing requirements must be incorporated in a facility's waste

analysis plan or a generator's self-implementing waste analysis plan; at a minimum, composite samples of residues must be collected and analyzed quarterly and/or when the process or operation generating the waste changes. The generic exclusion levels are:

Constituent	Maximum for any single composite sample (mg/l)
Antimony	0.063
Arsenic	0.055
Barium	6.3
Beryllium	0.0063
Cadmium	0.032
Chromium (total)	0.33
Lead	0.095
Mercury	0.009
Nickel	0.63
Selenium	0.16
Silver	0.30
Thallium	0.013
Vanadium	1.26

For each shipment of K061 HTMR residues sent to a subtitle D unit that meets the generic exclusion levels for all constituents, and does not exhibit any characteristic, a notification and certification must be sent to the appropriate EPA Regional Administrator (or delegated representative) or State authorized to implement part 268 requirements. The notification must include the following information: (*1*) The name and address of the Subtitle D unit receiving the waste shipment; (*2*) the EPA hazardous waste number and treatability group at the initial point of generation; (*3*) the treatment standards applicable to the waste at the initial point of generation. The certification must be signed by an authorized representative and must state as follows: "I certify under penalty of law that the generic exclusion levels for all constituents have been met without impermissible dilution and that no characteristic of hazardous waste is exhibited. I am aware that there are significant penalties for submitting a false certification, including the possibility of fine and imprisonment."

* * * * *

In § 261.4 paragraph (a)(11) is added to read as follows:

§ 261.4 Exclusions.

(a) * * * *

(11) Nonwastewater splash condenser dross residue from the treatment of K061 in high temperature metals recovery units, provided it is shipped in drums (if shipped) and not land disposed before recovery.

* * * * *

PART 268—LAND DISPOSAL RESTRICTIONS

1. The authority citation for part 268 continues to read as follows:

Authority: 42 U.S.C. 6905, 6912(a), 6921, and 6924.

2. In § 268.41, Table CCWE is amended by revising the entry for K061 (High Zinc Subcategory—greater than or equal to 15% Total Zinc—Effective until August 7th 1991) and by revising paragraph (b) to read as follows:

§ 268.41 Treatment standards expressed as concentrations in waste extract.

(a) * * *

* * * * *

TABLE CCWE—CONSTITUTE CONCENTRATIONS IN WASTE EXTRACT

Waste code	Commercial chemical name	See also	Regulated hazardous constituent	Wastewaters		Nonwastewaters	
				Concentration (mg/L)	Notes	Concentration (mg/L)	Notes
*	*	*	*	*	*	*	
K061, High Zinc, Subcategory.	Electric Arc Furnace Dust.	Table CCW in 268.43	Antimony	NA		2.1	
			Arsenic	NA		0.055	
			Barium	NA		7.6	
			Beryllium	NA		0.014	
			Cadmium	NA		0.19	
			Chromium (Total)	NA		0.33	
			Lead	NA		0.37	
			Mercury	NA		0.009	
			Nickel	NA		5	
			Selenium	NA		0.16	
			Silver	NA		0.3	
			Thallium	NA		0.078	
			Vanadium	NA		Reserved	
			Zinc	NA		5.3	

(b) When wastes with differing treatment standards for a constituent of concern are combined for purposes of treatment, the treatment residue must meet the lowest treatment standard for the constituent of concern, except that mixtures of high and low zinc nonwastewater K061 are subject to the treatment standard for high zinc K061.

* * * * *

§ 268.42 [Amended]

3.–4. In § 268.42, Table 2 is amended by removing the entry for K061.

PART 271—REQUIREMENTS FOR AUTHORIZATION OF STATE HAZARDOUS WASTE PROGRAMS

1. The authority citation for part 271 continues to read as follows:

Authority: 42 U.S.C. 6905, 6912(a), and 6926.

Subpart A—Requirements for Final Authorization

2. Section 271.1(j) is amended by adding the following entry to Table 1 in chronological order by date of promulgation in the **Federal Register**, and by adding the date of publication and the **Federal Register** page numbers to the following entry in Table 2:

§ 271.1 Purpose and scope.

* * * * *

(j) * * *

TABLE 1.—REGULATIONS IMPLEMENTING THE HAZARDOUS AND SOLID WASTE AMENDMENTS OF 1984

Promulgation date	Title of regulation	Federal Register reference	Effective date
*	*	*	*
August 19, 1991	Land disposal restrictions & generic exclusion for K061 nonwastewaters & conditional exclusion for K061 HTMR splash condenser dross residue.	[Insert Federal Register page numbers]	August 8, 1991.
*	*	*	*

* * * * *

TABLE 2.—SELF IMPLEMENTING PROVISIONS OF THE HAZARDOUS AND SOLID WASTE AMENDMENTS OF 1984

Effective date	Self-implementing provision	RCRA citation	Federal Register reference
*	*	*	*
August 8, 1991	Prohibition on land disposal of K061 high zinc nonwastewaters.	3004(g)(6)(A)	August 19, 1991. 56 FR [Federal Register page numbers].
*	*	*	*

* * * * *

[FR Doc. 91-19347 Filed 8-16-91; 8:45 am]
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federal register

Monday
August 19, 1991

Part III

Department of Education

Vocational Rehabilitation Service Projects for American Indians With Handicaps; Notice

DEPARTMENT OF EDUCATION

Vocational Rehabilitation Service Projects for American Indians With Handicaps

AGENCY: Department of Education.

ACTION: Notice of proposed priorities for fiscal year 1992.

SUMMARY: The Secretary proposes priorities for fiscal year 1992 for the Vocational Rehabilitation Service Projects for American Indians With Handicaps Program. The Secretary takes this action to focus Federal financial assistance on identified national needs. The priorities are intended to increase the availability of vocational rehabilitation services to American Indians with disabilities living on reservations and Native Alaskans with disabilities living in tribal villages by—(1) Addressing the needs of Native Americans with specific learning disabilities; and (2) Addressing the needs of individuals with certain disabilities that are prevalent on the applicant's reservation or in the tribal village.

DATES: Comments must be received on or before September 18, 1991.

ADDRESSES: All comments concerning these proposed priorities should be addressed to Michael Morgan, U.S. Department of Education, 400 Maryland Avenue, SW., room 3038, Switzer Building, Washington, DC 20202–2576.

FOR FURTHER INFORMATION CONTACT: Edward Hofler, U.S. Department of Education, 400 Maryland Avenue, SW., room 3318, Switzer Building, Washington, DC 20202–2740. Telephone: (202) 732–2332. Deaf and hearing impaired individuals may call the Federal Dual Party Relay Service at 1–800–877–8339 (in the Washington, DC 202 area code, telephone 708–9300) between 8 a.m. and 7 p.m., Eastern time.

SUPPLEMENTARY INFORMATION: Grants under the Vocational Rehabilitation Service Projects for American Indians with Handicaps program are authorized by title I, section 130 of the Rehabilitation Act of 1973, as amended. The purpose of this program is to provide vocational rehabilitation services to American Indians and Native Alaskans with handicaps who reside on Federal or State reservations or in tribal villages in order to prepare them for suitable employment.

Applicable program regulations in 34 CFR part 371 call for projects to establish a vocational rehabilitation structure and provide services comparable to those provided to other individuals with disabilities served by the State vocational rehabilitation agencies. The regulations encourage cooperative arrangements between these projects and the State vocational rehabilitation system in order to provide complete and continuous services to American Indians living on reservations. An evaluation of this program completed in 1987 recommended that further efforts be made to establish a close and lasting relationship with the State vocational rehabilitation (VR) agency that will assure the project the necessary training, technical assistance, and provision of specific client services not feasible for the project to provide directly. A strong relationship with the State VR agency is also necessary to guarantee uninterrupted client services if and when the project ceases to receive Federal funding.

Furthermore, studies from the Indian Research and Training Centers and program experience indicate that these projects cannot function effectively in isolation from other tribal components that provide human services. Each project needs to establish within its own tribal organization effective linkages with the human service delivery system offering social services, health care, alcohol dependency treatment, and other comparable programs that, if already in place on the reservation, should not be duplicated in the vocational rehabilitation program.

Effective linkages and appropriate referrals, however, cannot be made unless a good working relationship is created between the director of the project and the management of the other tribal human service agencies. To achieve more effective internal relations on the reservations, special attention needs to be given to the recruitment of project directors who are knowledgeable about the various services already in place on the reservation and who are sensitive to the cultural, linguistic, and political realities of the reservation or Indian village. In addition, project directors must be effective liaison persons who can work constructively with other managers and directors of related programs. Since vocational rehabilitation is relatively new to many tribal organizations, the project director should be capable of communicating in an effective way to the existing human service delivery system the importance of the rehabilitation process for persons with disabilities.

The Secretary will announce the final priorities in a notice in the **Federal Register**. The final priorities will be determined by responses to this notice, available funds, and other considerations of the Department. Funding of particular projects depends on the availability of funds, the nature of the final priorities, and the quality of the applications received. The publication of these proposed priorities does not preclude the Secretary from proposing additional priorities, nor does it limit the Secretary to funding only these priorities, subject to meeting applicable rulemaking requirements.

Note: This notice of proposed priorities does not solicit applications. A notice inviting applications under this competition will be published in the **Federal Register** concurrent with or following publication of the notice of final priorities.

Priorities

Under 34 CFR 75.105(c)(3), the Secretary proposes to give an absolute preference to applications that meet one of the following priorities. The Secretary proposes to fund under this competition only applications that meet one of these absolute priorities:

Proposed Absolute Priority 1—Projects Addressing the Needs of American Indians With Specific Learning Disabilities Background

According to the 1988 Elementary and Secondary School Civil Rights Survey conducted by the Department of Education, Office for Civil Rights, a larger percentage of American Indian youth (5.8 percent) enrolled in schools were classified as learning disabled than any other group (4.4 percent of African Americans enrolled have learning disabilities; 4.4 percent of White Americans enrolled have learning disabilities; 3.9 percent of Hispanic Americans enrolled have learning disabilities; and 1.4 percent of Asian Americans enrolled have learning disabilities).

The characteristics of American Indian youth with specific learning disabilities (SLD) include significant differences between verbal and performance I.Q. scores; achievement scores below what one would expect based on I.Q. scores; processing deficits such as auditory sequencing and memory deficits despite intact hearing and sound discrimination skills; and behaviors consistently linked with learning disabilities, such as attention deficits, cognitive difficulties, difficulties in impulse control, poor interpersonal skills, and emotional problems. While the proposed priority is not limited to American Indian youth, this data is representative of the general Indian population.

Rehabilitation counseling literature recognizes the general need for culturally relevant rehabilitation that

accounts not only for the difference between American Indian culture and the dominant culture, but also for tribal differences among Indian people. Thus, effective rehabilitation services to American Indians must grow out of procedures that are sensitive to the culture of a specific tribe, must blend traditional Indian values and specific tribal customs with concepts of the dominant culture, and must simultaneously address the functional limitations of each individual's disability.

Priority

Projects under this priority must prepare eligible American Indians with SLD for vocational training or employment using remedial, compensatory, and accommodative strategies to overcome the individual functional limitations of their disability, while introducing them to concepts from the dominant culture that are essential for being successful in the employment sector. These models must be developed in the context of a specific tribal culture by skilled professionals of that tribe.

In addition, all projects must meet the following three requirements: (1) Each project must have a cooperative working arrangement with the appropriate State vocational agency or agencies to facilitate complete and continuous services to American Indians and Native Alaskans served under the project. (2) Each project must have effective linkages with the existing human service system within the specific tribe or consortium of tribes. (3) Each project must have a project director who is familiar with the specific tribal population and its cultural and linguistic needs, the reservation structures and policies, and the human service delivery system in place at each tribal organization.

Proposed Absolute Priority 2—Projects Addressing Disabilities of High Prevalence on the Reservation or in the Tribal Village Background

Among the issues especially unique to the American Indian, as cited in a 1987 study done by the American Indian Research and Training Center, is the existence of a high variance in the prevalence of certain disabilities according to geographical area. It has been found that certain disabilities, such as diabetes, tuberculosis, specific learning disabilities, mental retardation, alcoholism, and substance abuse, are prevalent on certain reservations. There is the need to increase capacity to serve those disability groups representing conditions of high prevalence within the American Indian or Native Alaskan population by the geographic location served.

Priority

Projects under this priority must offer special measures or arrangements for effectively addressing specific disabilities of high prevalence on the reservation or in the tribal village, while continuing to serve all tribal members with disabilities in keeping with the overall purpose of the program.

In addition, all projects must meet the following three requirements: (1) Each project must have a cooperative working arrangement with the appropriate State vocational agency or agencies to facilitate complete and continuous services to American Indians and Native Alaskans served under the project. (2) Each project must have effective linkages with the existing human service system within the specific tribe or consortium of tribes. (3) Each project must have a project director who is familiar with the specific tribal population and its cultural and linguistic needs, the reservation structures and policies, and the human service delivery system in place at each tribal organization.

Invitational Priority

Background

To date, only 39 (13 percent) of the 309 federally-recognized American Indian tribes and only 4 (2 percent) of the 197 tribal villages in Alaska have received funding under this project authority. In addition, 16 of the 17 grants awarded under this authority have served reservations in the western, southwestern, and far-northwestern areas of the United States.

Priority

In conjunction with the preceding absolute priorities, the Secretary is particularly interested in encouraging applications from tribal organizations in the midwest or eastern areas of the country or from tribal organizations that have not yet been funded under this program authority. The Secretary is interested in expanding these projects into other areas of the country and in providing funding to other tribal organizations and tribal villages.

However, under 34 CFR 75.105(c)(1) an application that meets this invitational priority does not receive competitive or absolute preference over other applications.

Invitation to Comment

Interested persons are invited to submit comments and recommendations regarding these proposed priorities.

All comments submitted in response to this notice will be available for public inspection, during and after the comment period, in room 3318, Switzer Building, 330 C Street, SW., Washington, DC, between the hours of 8:30 a.m. and 4 p.m., Monday through Friday of each week except Federal holidays.

Applicable Program Regulations

34 CFR parts 369 and 371.

Program Authority: 29 U.S.C. 750.

(Catalog of Federal Domestic Assistance Number 84.126, Rehabilitation Service Projects)

Dated: July 1, 1991.

Lamar Alexander,

Secretary of Education.

[FR Doc. 91-19677 Filed 8-16-91; 8:45 am]

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federal register

Monday
August 19, 1991

Part IV

Department of Education

Office of Postsecondary Education

Perkins Loan, College Work-Study, and Supplemental Educational Opportunity Grant Programs; Notice

DEPARTMENT OF EDUCATION

Office of Postsecondary Education

Perkins Loan, College Work-Study, and Supplemental Educational Opportunity Grant Programs

AGENCY: Department of Education.

ACTION: Notice of closing date for filing the fiscal operations report and application to participate in the Perkins Loan, College Work-Study (CWS), and Supplemental Educational Opportunity Grant (SEOG) Programs.

SUMMARY: The Secretary gives notice to institutions of higher education of the deadline for an institution to apply for fiscal year 1992 funds—for use in the 1992–93 award year—under the Perkins Loan, CWS and SEOG programs. Under these programs, the Secretary allocates funds to institutions for students who need financial aid to meet the costs of postsecondary education. An institution is not required to establish eligibility prior to applying for funds. Institutions will be notified of the closing date for establishing institutional eligibility to participate in the Perkins Loan, CWS and SEOG programs through a separate notice in the **Federal Register**.

The Secretary further gives notice that an institution that had a Perkins Loan fund or expended CWS or SEOG funds during the 1990–91 award year is required to report its program expenditures as of June 30, 1991, to the Secretary.

The Perkins Loan, CWS, and SEOG programs are authorized by part E, part C, and part A, subpart 2, respectively, of title IV of the Higher Education Act of 1965, as amended.

Authority: (20 U.S.C. 1087aa–1087hh; 42 U.S.C. 2751–2756a; and 20 U.S.C. 1070b–1070b–3).

Closing Date

An institution may submit its 1990–91 Fiscal Operations Report and 1992–93 Application to Participate in the Perkins Loan, College Work-Study, and Supplemental Educational Opportunity Grant Programs (FISAP–ED FORM 646–1; OMB No. 1840–0073) by—

(1) Submitting the completed data on a data diskette provided by the Department of Education;

(2) Creating a tape from data stored on a mainframe computer, and submitting that tape in a predefined format; or

(3) Transmitting the data from a personal or mainframe computer through a modem.

First-time applicants will be required to submit data for the application portion of the FISAP only. Therefore, the Department is mailing only that portion of the data cells to first-time applicants.

To ensure consideration for 1992–93 funds an institution must submit an electronic FISAP either by data diskette, tape, or modem, by October 1, 1991.

FISAPs Delivered by Mail

A diskette or tape containing FISAP data must be mailed to FISAP, c/o Universal Automation Leasing Corp. (UAL), 5th Floor, 8300 Colesville Road, Silver Spring, Maryland 20910.

An institution must show proof of mailing its FISAP. Proof of mailing consists of one of the following: (1) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service, (2) a legibly dated U.S. Postal Service postmark, (3) a dated shipping label, invoice, or receipt from a commercial carrier, or (4) any other proof of mailing acceptable to the U.S. Secretary of Education.

If a FISAP is sent through the U.S. Postal Service, the Secretary does not accept either of the following as proof of mailing: (1) A private metered postmark, or (2) a mail receipt that is not dated by the U.S. Postal Service. An institution should note that the U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an institution should check with its local post office. An institution is encouraged to use certified or at least first-class mail.

FISAPs Delivered by Hand

A diskette or tape containing FISAP data must be taken to Universal Automation Leasing Corp. (UAL), 5th Floor, 8300 Colesville Road, Silver Spring, Maryland.

Hand-delivered FISAP diskettes or tapes will be accepted between 9 a.m. and 5 p.m. daily (Eastern Daylight Time), except Saturdays, Sundays, and Federal holidays. A FISAP that is hand-delivered will not be accepted after 5 p.m. on the closing date.

FISAPs Delivered by Modem

A FISAP that is delivered by modem must be transmitted by either a personal or mainframe computer to the host ED computer. In addition, one original completed signature page from ED Form 646–1 must be submitted under separate cover to Electronic FISAP, c/o Universal Automation Leasing Corp. (UAL), 5th Floor, 8300 Colesville Road, Silver Spring, Maryland 20910, by October 1, 1991.

FISAP Information

FISAP materials were mailed by the Campus-Based Programs Branch in late July. An institution must prepare and submit its FISAP in accordance with the instructions included in the package.

The program information package is intended to aid applicants in applying for assistance under these programs. Nothing in the program information package is intended to impose any paperwork, application content, reporting, or grantee performance requirements beyond those specifically imposed under the statute and regulations governing the programs.

Applicable Regulations

The following regulations are applicable to these programs:

Perkins Loan—34 CFR parts 674 and 668
College Work-Study—34 CFR parts 675 and 668
Supplemental Educational Opportunity Grant—34 CFR parts 676 and 668

Further Information

For further information or to request a FISAP form, contact Ms. Gloria Easter, Chief, Financial Management Section, Campus-Based Programs Branch, Division of Program Operations and Systems, Office of Student Financial Assistance, U.S. Department of Education, 400 Maryland Avenue SW., (room 4621, ROB–3), Washington, DC 20202–5452. Telephone (202) 708–7741. Deaf and hearing impaired individuals may call the Federal Dual Party Relay Service at 1–800–877–8339 (in the Washington, DC 202 area code, telephone 708–9300) between 8 a.m. and 7 p.m., Eastern time.

Authority: (20 U.S.C. 1087aa et. seq.; 42 U.S.C. 2751 et seq.; and 20 U.S.C. 1070b et seq.)

(Catalog of Federal Domestic Assistance Nos. 84.038, Perkins Loan Program; 84.033, College Work-Study Program; and 84.007, Supplemental Educational Opportunity Grant Program)

Dated: August 13, 1991.

Michael J. Farrell,

Acting Assistant Secretary for Postsecondary Education.

[FR Doc. 91–19680 Filed 8–16–91; 8:45 am]

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Monday
August 19, 1991

Part V

Department of Education

Office of Postsecondary Education

Perkins Loan, College Work-Study, Supplemental Educational Opportunity Grant, Income Contingent Loan, and Stafford Loan Programs; Notices

DEPARTMENT OF EDUCATION

Office of Postsecondary Education

Perkins Loan, College Work-Study, Supplemental Educational Opportunity Grant, Income Contingent Loan, and Stafford Loan Programs

AGENCY: Department of Education.

ACTION: Notice of procedures for certification of need analysis servicers' systems and notice of closing dates for requesting and returning agreements and transmittal of information.

SUMMARY: The Secretary of Education is informing individuals and organizations that operate need analysis systems (need analysis servicers) of the procedures the Secretary will use to certify need analysis systems for the 1992–93 award year.

FOR FURTHER INFORMATION CONTACT: Lorraine Kennedy, Division of Policy and Program Development, Office of Student Financial Assistance, Department of Education, 400 Maryland Avenue SW., room 4613, ROB–3, Washington, DC 20202–5346, Telephone (202) 708–4601. For information regarding the specification package contact Rafael Delgado, Telephone (301) 588–5484.

SUPPLEMENTARY INFORMATION:

Program Information

The Perkins Loan, College Work Study, Supplemental Educational Opportunity Grant (known collectively as the campus-based programs) and the Stafford Loan programs are "need based" student financial aid programs. In order to award or approve financial aid under each program, an institution must determine whether a student has financial need. The institution determines a student's financial need by subtracting from the student's educational cost the expected family contribution, i.e., the amount of the educational costs the student, the student's spouse and, in the case of a dependent student, the parents, may reasonably be expected to contribute.

Institutions participating in the Income Contingent Loan (ICL) program must make ICLs reasonably available first to all eligible students who demonstrate financial need.

Part F of title IV of the Higher Education Act of 1965, as amended (HEA), provides detailed formulas for determining a student's expected family contribution for the campus-based, ICL and Stafford Loan programs. These statutory formulas specify the criteria, data elements and tables used for determining schedules of expected family contributions for these programs.

As authorized by the HEA, and as a service to participating institutions, the Secretary will certify that an individual's or organization's system has the capability for determining an expected family contribution that is consistent with the calculation prescribed by part F of title IV of the HEA. Using a certified need analysis system in the calculation of an expected family contribution for 1992–93 under the campus-based, ICL, and Stafford Loan programs assures the institution that the expected family contribution produced by the system will accurately reflect the expected family contribution described in title IV, part F, of the HEA. A need analysis servicer may also agree to incorporate into the system Department of Education (ED) edits, specifications and/or selection criteria for verification as described in § 668.54 of the Student Assistance General Provisions regulations. Need analysis servicers must follow the procedures set forth below to have their systems certified by the Secretary. The Secretary will provide educational institutions with a list of certified systems in May 1992.

Certification Procedural Requirements

In order to have its system certified by the Secretary for the 1992–93 award year, a need analysis servicer must enter into an agreement with the Secretary and comply with the following procedures:

Step 1: The Secretary automatically sends an agreement package to need analysis servicers certified for the 1991–92 award year. Need analysis servicers that were not certified for the 1991–92 award year must request an agreement package by September 30, 1991. The request must be in writing and either hand-delivered or mailed to the Department of Education, Office of Student Financial Assistance, Division of Policy and Program Development, State Grant and Verification Branch, 400 Maryland Avenue SW., room 4613, Regional Office Building 3, Washington, DC 20202–5346.

Step 2: The Secretary provides an agreement package to the need analysis servicer. The agreement package includes the agreement and information that will enable the need analysis servicer to determine whether it wishes its system to become certified and to determine its type of participation.

Step 3: The need analysis servicer must select and identify the type of participation on the agreement, and return the signed agreement to ED by October 30, 1991.

Agreements Delivered by Mail

Agreements delivered by mail must be addressed to the Department of Education, Office of Student Financial Assistance, Division of Policy and Program Development, State Grant and Verification Branch, 400 Maryland Avenue SW., (room 4613, Regional Office Building 3), Washington, DC 20202–5346.

A need analysis servicer must show proof of mailing the agreement. Proof of mailing consists of one of the following: (1) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service; (2) a legibly dated U.S. Postal Service postmark; (3) a dated shipping label, invoice, or receipt from a commercial carrier; or (4) any other proof of mailing acceptable to the U.S. Secretary of Education.

If agreements are forwarded using the U.S. Postal Service, the Secretary does not accept either of the following as proof of mailing: (1) A private metered U.S. Postal Service postmark; or (2) a mail receipt that is not dated by the U.S. Postal Service. Since the U.S. Postal Service does not uniformly provide a dated postmark the need analysis servicer should confirm that a dated postmark can be obtained from the selected post office. A need analysis servicer is encouraged to use certified or, at least first-class mail.

Agreements Delivered by Hand

Agreements that are hand-delivered must be taken to the Department of Education, Office of Student Financial Assistance, Division of Policy and Program Development, State Grant and Verification Branch, 7th and D Streets SW., (room 4613, Regional Office Building 3), Washington, DC 20202–5346.

Hand-delivered agreements will be accepted between 8 a.m. and 4:30 p.m. daily (Washington, DC time), except Saturdays, Sundays, and Federal holidays. Agreements delivered by hand will not be accepted after 4:30 p.m. on the closing date.

Step 4: Following submission of the signed agreement to ED, ED provides the need analysis servicer with the software development package corresponding to the participation type selected.

Step 5: Test cases and additional information pertaining to the submission of the processed test cases will be transmitted by ED to the need analysis servicer at a date mutually agreed upon. The complexity and number of the test cases depend on the participation type the need analysis servicer has selected. (A test case is a discrete set of hypothetical applicant data which is

used to test the accuracy and adequacy of both the operations and the need analysis servicer's implementation of part F of title IV of the HEA. A single test case may test one or more specific input, process, or output functions. An aggregate of test cases may test a particular computer process, computer run, process cycle, subsystem, or total system process.)

Each set of test cases is designed to provide evidence that will indicate the need analysis servicer's ability to perform accurately operational functions of the participation type selected. ED will evaluate two test case submissions at no charge; a fee of $3,000 will be charged for any additional test case submissions. A need analysis servicer will be given a choice of receiving its test cases by floppy disk or magnetic or cartridge tape.

Note: A need analysis servicer is expected to test its system thoroughly before submitting test cases to ED for evaluation.

Step 6: A need analysis servicer processes all the test cases provided and submits to ED the generated results on floppy disk or magnetic or cartridge tape by March 27, 1992. In that submission the need analysis servicer must demonstrate to the satisfaction of ED that there were no system deficiencies in those test cases. Any discrepancies in the test case results must be resolved to the satisfaction of ED by April 10, 1992 in order for the need analysis servicer's system to be certified and included in the list of certified systems to be provided by the Secretary in May 1992.

Test Case Results Delivered by Mail

Test cases delivered by mail must be addressed to Mr. William Schulte, National Computer Systems, 2510 North Dodge Street, Iowa City, Iowa 52244.

A need analysis servicer must show proof of mailing the test case results. Proof of mailing consists of one of the following: (1) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service; (2) a legibly dated U.S. Postal Service postmark; (3) a dated shipped label, invoice, or receipt from a commercial carrier; or (4) any other proof of mailing acceptable to the U.S. Secretary of Education.

If test case results are forwarded using the U.S. Postal Service, the Secretary does not accept either of the following as proof of mailing: (1) A private metered U.S. Postal Service postmark, or (2) a mail receipt that is not dated by the U.S. Postal Service. Since the U.S. Postal Service does not uniformly provide a dated postmark, the need analysis servicer should confirm that a dated postmark can be obtained from the selected post office. A need analysis servicer is encouraged to use certified or, at least, first-class mail.

Test Case Results Delivered by Hand

Test case results that are hand-delivered must be taken to Mr. William Schulte, National Computer Systems, 2510 North Dodge Street, Iowa City, Iowa 52244.

Hand-delivered test case results will be accepted between 8 a.m. and 4 p.m. daily (Iowa City time), except Saturdays, Sundays, and Federal holidays. Test case results delivered by hand will not be accepted after 4 p.m. on the closing date.

Closing Dates

1. Deadline date to request agreement package—September 30, 1991.
2. Deadline date to submit agreement to ED—October 30, 1991.
3. Deadline date to submit test case results to ED—March 27, 1992.
4. Deadline date to resolve test case results—April 10, 1992.

(Catalog of Federal Domestic Assistance No. 84.038, Perkins Loan Program (formerly National Direct Student Loan); 84.038, Income Contingent Loan Program; 84.226, College Work-Study Program; 84.007, Supplemental Educational Opportunity Grant Program; and 84.032, Stafford Loan Program (formerly Guaranteed Student Loan))

Dated: August 12, 1991.

Michael J. Farrell,

Acting, Assistant Secretary for Postsecondary Education.

[FR Doc. 91-19578 Filed 8-16-91; 8:45 am]

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federal register

Monday
August 19, 1991

Part VI

Department of Agriculture

Cooperative State Research Service

7 CFR Part 3200

Competitive Research Grants Program; Administrative Provisions; Proposed Rule

DEPARTMENT OF AGRICULTURE

Cooperative State Research Service

7 CFR Part 3200

Competitive Research Grants Program; Administrative Provisions

AGENCY: Cooperative State Research Service, USDA.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Cooperative State Research Service (CSRS) proposes to amend its regulations, relating to the administration of the Competitive Research Grants Program, that prescribe the procedures to be followed annually in the solicitation of competitive grant proposals, the evaluation of such proposals, and the award of competitive research grants under this program. This action is being taken to change references from the Competitive Research Grants Program to the National Competitive Research Initiative Grants Program to account for the additional categories of competitive grants added by the Food, Agriculture, Conservation, and Trade Act of 1990; to provide CSRS the option of selecting different proposal evaluation criteria for specific program areas and/or types of grant projects for proper evaluation of proposals; to provide CSRS the option of selecting various means of publishing program solicitations; to indicate that the format for grant proposals applies unless otherwise stated in the program solicitation; to add references to applicable regulations that have been implemented since these provisions were established, and to make a few additional changes.

DATES: Comments are invited from interested individuals and organizations. To be considered in the formulation of a final rule, all relevant material must be received on or before September 18, 1991.

ADDRESSES: Comments should be sent to Terry J. Pacovsky, Director, Awards Management Division, Office of Grants and Program Systems, Cooperative State Research Service, U.S. Department of Agriculture, room 322, Aerospace Center, Washington, DC 20250–2200.

FOR FURTHER INFORMATION CONTACT: Terry J. Pacovsky at (202) 401–5024.

SUPPLEMENTARY INFORMATION:

Paperwork Reduction

The Office of Management and Budget has previously approved the information collection requirements contained in the current regulations at 7 CFR part 3200 under the provisions of 44 U.S.C. chapter 35 and OMB Document No. 0524–0022 has been assigned. The information collection requirements of the proposed rule at 7 CFR part 3200 will be submitted to the Office of Management and Budget for review and approval in accordance with the Paperwork Reduction Act of 1980. The public reporting burden for the information collections contained in these regulations is estimated to vary from ½ hour to 3 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to Department of Agriculture, Clearance Officer, OIRM, room 404–W, Washington, DC 20250; and to the Office of Management and Budget, Paperwork Reduction Project (OMB Document No. 0524–0022), Washington, DC 20503.

Classification

This rule has been reviewed under Executive Order 12291 and it has been determined that it is not a major rule because it does not involve a substantial or major impact on the Nation's economy or on large numbers of individuals or businesses. There will be no major increase in cost or prices for consumers, individual industries, Federal, State, or local governmental agencies, or geographical regions. It will not have a significant economic impact on competitive employment, investment, productivity, innovation, or on the ability of United States enterprises to compete with foreign-based enterprises in domestic or export markets. In addition, it will not have a significant impact on a substantial number of small entities as defined in the Regulatory Flexibility Act, Public Law No. 96–534 (5 U.S.C. 601 *et seq.*).

Regulatory Analysis

Not required for this rulemaking.

Environmental Impact Statement

This proposed regulation does not significantly affect the environment. Therefore, an environmental impact statement is not required under the National Environmental Policy Act of 1969, as amended. (42 U.S.C. 4321 *et seq.*)

Catalog of Federal Domestic Assistance

The National Competitive Research Initiative Grants Program, formerly the Competitive Research Grants Program, is listed in the Catalog of Federal Domestic Assistance under No. 10.206. For reasons set forth in the Final Rule-related Notice to 7 CFR part 3015, subpart V (48 FR 29115, June 24, 1983), this program is excluded from the scope of Executive Order 12372 which requires intergovernmental consultation with State and local officials.

Background and Purpose

Under the authority of section 2(b) of the Act of August 4, 1965, as amended by section 1615 of the Food, Agriculture, Conservation, and Trade Act of 1990 (the Act), the Secretary of Agriculture is authorized to make competitive grants for research to facilitate or expand promising breakthroughs in areas of the food and agricultural sciences of importance to the United States to State agricultural experiment stations, all colleges and universities, other research institutions and organizations, Federal agencies, private organizations or corporations, and individuals. Section 2(b) of the Act also authorizes the Secretary of Agriculture to make a variety of competitive grants to improve research capabilities in the agricultural, food, and environmental sciences. 7 CFR 2.107(a)(3) delegates this authority to the Administrator of CSRS. In the past, a Notice was published in the **Federal Register** annually announcing the availability of funds for competitive research grants and soliciting proposals. In addition, the Notice set forth the procedures and criteria for the evaluation of proposals and procedures and conditions relating to the award and administration of these grants. On February 13, 1984, the Department published a Final Rule in the **Federal Register** (49 FR 5570), which established and codified such procedures, criteria, and conditions to be employed annually. It standardized the rules applicable to the administration of the Competitive Research Grants Program and eliminated the need to republish them annually.

The administrative regulations governing grant programs authorized by section 2(b) of the Act of August 4, 1965, as amended, are proposed to be amended as follows:

Throughout the proposed amendment, CSRS has changed references to the Competitive Research Grants Program to refer to the National Competitive Research Initiative Grants Program to be consistent with section 1615 of the Food, Agriculture, Conservation, and Trade Act of 1990 (FACT Act).

Throughout the proposed amendment, CSRS has made various other changes to reflect the addition, by section 1615 of the FACT Act, of a competitive grants program to improve research capabilities.

Throughout the proposed amendment, CSRS has changed references to the Secretary to refer to the Administrator of CSRS to be consistent with the delegation of authority in 7 CFR 2.107(a)(3).

Sections 3200.1(a) and 3200.4(a)

CSRS proposes to revise these sections to indicate the various types of publications, in addition to the **Federal Register**, in which program solicitations may be announced by CSRS to the public. This revision is consistent with the USDA Uniform Federal Assistance Regulations, 7 CFR part 3015.

Section 3200.4

CSRS proposes to revise substantially this entire section to clarify instructions related to the application process and proposal format. Because of these revisions, the subsection order within this section has changed.

Section 3200.4(c) (previously 3200.4(d))

CSRS proposes to add a statement to this section to indicate that the program solicitation will provide instructions regarding specific format requirements for proposals such as page length, type of print, order of assembly, etc., and that the general format for proposal preparation indicated in paragraphs (c)(1)–(c)(13) of § 3200.4 should be followed unless otherwise stated in the program solicitation.

Section 3200.4(c)(9) (previously 3200.4(d)(6))

CSRS proposes to revise the last sentence of this section to indicate that all grants, except equipment grants authorized by section 2(b)(3)(D) of the Food, Agriculture, Conservation, and Trade Act of 1990 will be issued without regard to matching funds or cost sharing.

Section 3200.4(c)(10)(i) (previously 3200.4(d)(7)(i))

CSRS proposes to add at the end of this section a sentence that indicates that the Grant Application Kit identified in § 3200.4(b) will contain forms that are suitable for certification of compliance with the "Guidelines for Research Involving Recombinant DNA Molecules," as revised, established by the National Institutes of Health.

Section 3200.4(c)(10)(iii)

CSRS proposes to add this section regarding experimental vertebrate animal care to ensure compliance with applicable provisions of the Animal Welfare Act of 1966, as amended (7 U.S.C. 2131 et seq.) and the regulations contained in 9 CFR parts 1, 2, 3, and 4.

Section 3200.4(c)(11) (previously 3200.4(d)(8))

CSRS proposes to add, at the end of this section, a sentence that indicates that the Grant Application Kit identified in § 3200.4(b) will contain a suitable form for listing current and pending support. This action will ensure uniformity in the information provided to CSRS in all grant proposals as well as inform prospective applicants of the existence of such a form.

Section 3200.4(c)(13) (previously 3200.4(d)(9))

CSRS proposes to revise this section to inform prospective applicants that forms recommended for use in providing organizational management information to CSRS will be provided to them by CSRS when required. This action will remove the requirement placed upon the applicant in requesting the forms from CSRS.

Section 3200.5

CSRS proposes to amend the basic evaluation criteria to be used in the review of proposals; the amended criteria will better address the current needs of the program. Also, this section is amended in order to allow the use of evaluation criteria that differs from the basic criteria when CSRS determines that such is necessary for the proper evaluation of proposals in a specific program area or for a specific type of grant project. Such determination would be made prior to the release of the program solicitation and any changes to the basic evaluation criteria would be specified therein.

Sections 3200.7(b)(4), 3200.7(c) and 3200.7(d)

CSRS proposes to change these sections to allow CSRS to indicate in each particular grant award document the conditions under which the actual performance of substantive programmatic work may be transferred, or the approved budget or project period may be changed. For those potential grantees within the scope of the USDA Uniform Federal Assistance Regulations, 7 CFR part 3015, these changes are consistent with the deviation authorities and the Federal Demonstration Project. These changes may be included for other potential grantees because the USDA Uniform Federal Assistance Regulations are not applicable to these other potential grantees, except if the potential grantee is a State or local government, then the provisions of 7 CFR part 3016 apply.

Section 3200.8

CSRS proposes to add to this section the USDA Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments, 7 CFR part 3016; USDA implementing regulations that apply to Governmentwide Debarment and Suspension (Nonprocurement) and to the Governmentwide Requirement for a Drug-Free Workplace (Grants), 7 CFR part 3017, as amended; the USDA implementing regulations that apply to New Restrictions on Lobbying, 7 CFR part 3018; and the USDA implementing regulation regarding OMB Circular No. A–129, relating to debt collection, 7 CFR part 3. This action will inform the prospective applicants of the specific legal requirements in these areas by listing the regulations which apply to this program.

Section 3200.15

Consistent with the proposal to amend § 3200.5, CSRS proposes to amend § 3200.15 to indicate that if different evaluation criteria are selected for use for a specific program area or type of project, the program solicitation will so state.

We propose to publish title 7, chapter XXXII, part 3200 of the Code of Federal Regulations, together with the proposed changes, in its entirety. This action will allow the regulations and amendments to appear in one document for easy access and reference by the public and CSRS.

List of Subjects in 7 CFR Part 3200

Grant programs—agriculture, Grants administration.

For the reasons set out in the preamble, title 7, chapter XXXII, part 3200 of the Code of Federal Regulations is proposed to be revised to read as follows:

CHAPTER XXXII—COOPERATIVE STATE RESEARCH SERVICE, DEPARTMENT OF AGRICULTURE

PART 3200—NATIONAL RESEARCH INITIATIVE COMPETITIVE GRANTS PROGRAM

Subpart A—General

Sec.

Sec.
3200.9 Other conditions

Subpart B—Scientific Peer Review of Research Grant Applications

3200.10 Establishment and operation of peer review groups.
3200.11 Composition of peer review groups.
3200.12 Conflicts of interest.
3200.13 Availability of information.
3200.14 Proposal review.
3200.15 Evaluation factors.

Authority: Sec. 2(h) of the Act of August 4, 1965, as amended (7 U.S.C. 450i(h)).

Subpart A—General

§ 3200.1 Applicability of regulations.

(a) The regulations of this part apply to competitive research grants awarded under the authority of section 2(b) of the Act of August 4, 1965, as amended by section 1615 of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 450i(b)), for the support of research to further the programs of the Department of Agriculture and to improve research capabilities in the agricultural, food, and environmental sciences in the following categories: Single investigators or coinvestigators in the same disciplines; teams of researchers from different disciplines; institutions to allow for improvement of research, development, technology transfer and education capacity through the acquisition of special research equipment and improvement of teaching and education, including fellowships; single investigators or coinvestigators who are beginning their research careers; and faculty of small and mid-sized institutions not previously successful in obtaining competitive grants under this subsection. Taking into consideration any determinations made by the Joint Council on Food and Agricultural Sciences and the National Agricultural Research and Extension Users Advisory Board, the Administrator of CSRS shall determine and announce, through publication of a Notice in such publications as the **Federal Register**, professional trade journals, agency or program handbooks, the Catalog of Federal Domestic Assistance, or any other appropriate means, high-priority research areas and categories to improve research capabilities for which proposals will be solicited and the extent that funds are available therefor.

(b) The regulations of this part do not apply to grants awarded by the Department of Agriculture under any other authority.

§ 3200.2 Definitions.

As used in this part:

(a) *Administrator* means the Administrator of the Cooperative State Research Service (CSRS) and any other officer or employee of the Department of Agriculture to whom the authority involved may be delegated.

(b) *Department* means the Department of Agriculture.

(c) *Principal investigator* means a single individual who is responsible for the scientific and technical direction of the project, as designated by the grantee in the grant application and approved by the Administrator.

(d) *Grantee* means the entity designated in the grant award document as the responsible legal entity to whom a grant is awarded under this part.

(e) *Grant* means the award by the Administrator of funds to a grantee to assist in meeting the costs of conducting, for the benefit of the public, an identified project which is intended and designed to establish, discover, elucidate, or confirm information or the underlying mechanisms relating to a research program area identified in the program solicitation; it also means the award by the Administrator of funds to a grantee to strengthen its research capabilities relating to a research program area identified in the program solicitation;

(f) *Project* means the particular activity within the scope of one or more of the research program areas or the categories to improve capabilities identified in the program solicitation that is supported by a grant under this part.

(g) *Project period* means the total time approved by the Administrator for conducting the proposed project as outlined in an approved grant application.

(h) *Budget period* means the interval of time (usually 12 months) into which the project period is divided for budgetary and reporting purposes.

(i) *Awarding official* means the Administrator and any other officer or employee of the Department to whom the authority to issue or modify grant instruments has been delegated.

(j) *Peer review group* means an assembled group of experts or consultants qualified by training and experience in particular scientific or technical fields to give expert advice, in accordance with the provisions of this part, on the scientific and technical merit of grant applications in those fields.

(k) *Ad hoc reviewers* means experts or consultants qualified by training and experience in particular scientific or technical fields to render special expert advice, through written evaluations of grant applications, in accordance with the provisions of this part, on the scientific or technical merit of grant applications in those fields.

(l) *Research* means any systematic study directed toward new or fuller knowledge and understanding of the subject studied.

(m) *Methodology* means the project approach to be followed and the resources needed to carry out the project.

§ 3200.3 Eligibility requirements.

(a) Except where otherwise prohibited by law, State agricultural experiment stations, all colleges and universities, other research institutions and organizations, Federal agencies, private organizations or corporations, and individuals, shall be eligible to apply for and to receive a competitive grant award under this part, provided that the applicant qualifies as a responsible grantee under the criteria set forth in paragraph (b) of this section.

(b) To qualify as responsible, an applicant must meet the following standards as they relate to a particular project:

(1) Adequate financial resources for performance, the necessary experience organizational and technical qualifications, and facilities, or a firm commitment, arrangement, or ability to obtain same (including by proposed subgrantees);

(2) Ability to comply with the proposed or required completion schedule for the project;

(3) Satisfactory record of integrity, judgment, and performance, including, in particular, any prior performance under grants and contracts from the Federal government;

(4) Adequate financial management system and audit procedures that provide efficient and effective accountability and control of all funds, property, and other assets; and

(5) Otherwise qualified and eligible to receive a grant under the applicable laws and regulations; eligibility for specific program areas or categories of competitive grants to improve research capabilities will be outlined in the program solicitation;

(c) Any applicant who is determined to be not responsible will be notified in writing of such finding and the basis therefor.

§ 3200.4 How to apply for a grant.

(a) A program solicitation will be prepared and announced through publications such as the **Federal Register**, professional trade journals, agency or program handbooks, the Catalog of Federal Domestic Assistance, or any other appropriate means, as early

as practicable each fiscal year. It will contain information sufficient to enable all eligible applicants to prepare competitive grant proposals and will be as complete as possible with respect to:

(1) Descriptions of the specific research areas and the categories of competitive grants to improve research capabilities that the Department proposes to support during the fiscal year involved, including anticipated funds to be awarded;

(2) Eligibility requirements;

(3) Obtaining application kits;

(4) Deadline dates for postmarking proposal packages;

(5) Name and mailing address to send proposals;

(6) Number of copies to submit;

(7) Special requirements.

(b) *Grant Application Kit.* A Grant Application Kit will be made available to any potential grant applicant who requests a copy. This kit contains required forms, certifications, and instructions applicable to the submission of grant proposals.

(c) *Format for grant proposals.* Specific instructions regarding page length, type of print, size of paper, and order of assembly, etc., of proposals will be provided in the program solicitation. However, unless otherwise stated in the program solicitation, the following general format applies:

(1) *Grant Application Cover Page.* All grant proposals submitted by eligible applicants should contain a Grant Application cover page, which must be signed by the proposing principal investigator(s) and endorsed by the cognizant authorized organizational representative who possesses the necessary authority to commit the applicant's time and other relevant resources. Investigators who do not sign the cover sheet will not be listed on the grant document in the event an award is made. The title of the proposal must be brief (80-character maximum), yet represent the major thrust of the project. Because this title will be used to provide information to those who may not be familar with the proposed project, highly technical words or phraseology should be avoided where possible. In addition, phrases such as "investigation of" or "research on" should not be used.

(2) *Project Summary.* Each proposal must contain a project summary. This summary is not intended for the general reader; consequently, it may contain technical language comprehensible by persons in disciplines relating to the food and agricultural sciences. The project summary should be a self-contained, specific discription of the activity to be undertaken and should focus on:

(i) Overall project goal(s) and supporting objectives;

(ii) Plans to accomplish project goal(s); and

(iii) Relevance or significance of the project to United States agriculture.

(3) *Project Description.* The specific aims of the project must be included in all proposals. The text of the project description may not exceed 15 single- or double-spaced pages and must contain the following components:

(i) Introduction. A clear statement of the long-term goal(s) and supporting objectives of the proposed project should preface the project description. The most significant published work in the field under consideration, including the work of key project personnel on the current application, should be reviewed. The current status of research in the particular field of sciences also should be described. All work cited, including that of key personnel, should be referenced.

(ii) Progress Report. If the proposal is a renewal of an existing project supported under this program (or its predecessor), include a clearly marked performance report describing results to date from the previous award. This section should contain the following information:

(A) A comparison of actual accomplishments with the goals established for the previous award·

(B) The reasons established goals were not met, if applicable;

(C) A listing of any publications resulting from the award. Copies of reprints or preprints may be appended to the proposal if desired.

(4) *Rational and Significance.* Present concisely the rationale behind the proposed project. The objectives' specific relationship to the area in which an application is submitted and the objectives' specific relationship to potential long-range improvements in United States agriculture should be shown clearly. Any novel ideas or contributions that the proposed project offers also should be discussed in this section.

(5) *Experimental Plan.* The hypotheses or questions being asked and the methodology to be applied to the proposed project should be stated explicitly. Specifically, this section must include:

(i) A description of the investigations and/or experiments proposed and the sequence in which the investigations or experiments are to be performed;

(ii) Techniques to be used in carrying out the proposed project, including the feasiblilty of the techniques;

(iii) Results expected;

(iv) Means by which experimental data will be analyzed or interpreted;

(v) Pitfalls that may be encountered;

(vi) Limitations to proposed procedures;

(vii) Tentative schedule for conducting major steps involved in these ingestigations and/or experiments.

In describing the experimental plan, the applicant must explain fully any materials, procedures, situations, or activities that may be hazardous to personnel (whether or not they are directly related to a particular phase of the proposed project), along with an outline of precautions to be exercised to avoid or mitigate the effects of such hazards.

(6) *Facilities and equipment.* All facilities and major items of equipment that are available for use or assignment to the proposed research project during the requested period of support should be described. In addition, items of nonexpendable equipment necessary to conduct and successfully conclude the proposed project should be listed.

(7) *Collaborative arrangements.* If the nature of the proposed project requires collaboration or subcontractual arrangements with other research scientists, corporations, organizations. agencies, or entities, the applicant must identify the collaborator(s) and provide a full explanation of the nature of the collaboration. Evidence (i.e., letters of intent) should be provided to assure peer reviewers that the collaborators involved have agreed to render this service. In addition, the proposal must indicate whether or not such collaborative arrangement(s) have the potential for conflict of interest.

(8) *Personnel support.* To assist peer reviewers in assessing the competence and experience of the proposed staff, all personnel who will be involved in the proposed project must be identified clearly. For each principal investigator involved, and for all senior associates and other professional personnel who expect to work on the project, whether or not funds are sought for their support, the following should be included:

(i) An estimate of the time commitments necessary:

(ii) Curriculum vitae. The curriculum vitae should be limited to a presentation of academic and research credentials, e.g., educational, employment and professional history, and honors and awards. Unless pertinent to the project, to personal status, or to the status of the organization, meetings attended, seminars given, or personal data such as birth date, marital status, or community activities should not be included. The vitae shall be no more than two pages

each in length, excluding publications listings; and

(iii) Publication List(s). A chronological list of all publications in refereed journals during the past five years, including those in press, must be provided for each professional project member for whom a curriculum vitae is provided. Authors should be listed in the same order as they appear on each paper cited, along with the title and complete reference as these usually appear in journals.

(9) *Budget.* A detailed budget is required for each year of requested support. In addition, a summary report is required detailing requested support for the overall project period. A copy of the form which must be used for this purpose, along with instructions for completion, is included in the Grant Application Kit identified under § 3200.4(b) of this part and may be reproduced as needed by applicants. Funds may be requested under any of the categories listed, provided that the item or service for which support is requested may be identified as necessary for successful conduct of the proposed project, is allowable under applicable Federal cost principles, and is not prohibited under any applicable Federal statute. It should be noted, for example, that section 2(b)(7) of the Act prohibits the use of funds under this program for the renovation or refurbishment of research spaces, purchases or installation of fixed equipment in such spaces, or for the planning, repair, rehabilitation, acquisition, or construction of a building or facility. Also, section 2(b)(8) of the Act requires that all grants, except equipment grants authorized by section 2(b)(3)(D) of the Act, awarded under this part shall be issued without regard to matching funds or cost sharing.

(10) *Research involving special considerations.* A number of situations encountered in the conduct of research require special information and supporting documentation before funding can be approved for the project. If any such situation is anticipated, the proposal must so indicate. It is expected that a significant number of proposals will involve the following:

(i) *Recombinant DNA and RNA molecules.* All key personnel identified in a proposal and all endorsing officials of a proposed performing entity are required to comply with the guidelines established by the National Institutes of Health entitled, "Guidelines for Research Involving Recombinant DNA Molecules," as revised. The Grant Application Kit, identified above in § 3200.4(b), contains forms which are suitable for such certification of compliance.

(ii) *Human subjects at risk.* Responsibility for safeguarding the rights and welfare of human subjects used in any proposed project supported with grant funds provided by the Department rests with the performing entity. Guidance is contained in Public Law 93–348, as implemented by the Department of Health and Human Services' policies under 45 CFR part 46. The applicant must submit a statement certifying that the project plan has been reviewed and approved by the Institutional Review Board at the proposing organization or institution. The Grant Application Kit, identified above in § 3200.4(b), contains a form which is suitable for such certification.

(iii) *Experimental vertebrate animal care.* The responsibility for the humane care and treatment of any experimental vertebrate animal, which has the same meaning as "animal" in section 2(g) of the Animal Welfare Act of 1966, as amended (7 U.S.C. 2132(g)), used in any project supported with National Competitive Research Initiative Grants Program funds rests with the performing organization. In this regard, all key personnel associated with any supported project and all endorsing officials of the proposed performing entity are required to comply with applicable provisions of the Animal Welfare Act of 1966, as amended (7 U.S.C. 2131 *et seq.*) and the regulations promulgated thereunder by the Secretary of Agriculture in 9 CFR parts 1, 2, 3, and 4. In this regard, the applicant must submit a statement certifying that the proposed project is in compliance with the aforementioned regulations, and that the proposed project is either under review by or has been reviewed and approved by an Institutional Animal Care and Use Committee. The Grant Application Kit, identified above in § 3200.4(b), contains a form which is suitable for such certification.

(11) *Current and pending support.* All proposals must list any other current public or private research support (including in-house support) to which key personnel identified in the proposal have committed portions of their time, whether or not salary support for the person(s) involved is included in the budget. Analogous information must be provided for any pending proposals that are being considered by, or that will be submitted in the near future to, other possible sponsors, including other USDA programs or agencies. Concurrent submission of identical or similar proposals to other possible sponsors will not prejudice proposal review or evaluation by the Administrator or experts or consultants engaged by the Administrator for this purpose. However, a proposal that duplicates or overlaps substantially with a proposal already reviewed and funded (or that will be funded) by another organization or agency will not be funded under this program. The Grant Application Kit, identified above in § 3200.4(b), contains a form which is suitable for listing current and pending support.

(12) *Additions to project description.* Each project description is expected by the Administrator, the members of peer review groups, and the relevant program staff to be complete. However, if the inclusion of additional information is necessary to ensure the equitable evaluation of the proposal (e.g., photographs which do not reproduce well, reprints, and other pertinent materials which are deemed to be unsuitable for inclusion in the text of the proposal), the number of copies submitted should match the number of copies of the application requested in the program solicitation. Each set of such materials must be identified with the name of the submitting organization, and the name(s) of the principal investigator(s). Information may not be appended to a proposal to circumvent page limitations prescribed for the project description. Extraneous materials will not be used during the peer review process.

(13) *Organizational management information.* Specific management information relating to an applicant shall be submitted on a one-time basis prior to the award of a grant identified under this part if such information has not been provided previously under this or another program for which the sponsoring agency is responsible. Copies of forms recommended for use in fulfilling the requirements contained in this section will be provided by the agency specified in this part once a grant has been recommended for funding.

§ 3200.5 Evaluation and disposition of applications.

(a) *Evaluation.* All proposals received from eligible applicants and postmarked in accordance with deadlines established in the annual program solicitation shall be evaluated by the Administrator through such officers, employees, and others as the Administrator determines are uniquely qualified in the areas of research represented by particular projects. To assist in equitably and objectively evaluating proposals and to obtain the

best possible balance of viewpoints, the Administrator shall solicit the advice of peer scientists, *ad hoc* reviewers, and/or others who are recognized specialists in the areas covered by the applications received and whose general roles are defined in § 3200.2(j) and § 3200.2(k). Specific evaluations will be based upon the criteria established in subpart B, § 3200.15, unless CSRS determines that different criteria are necessary for the proper evaluation of proposals in one or more specific program areas, or for specific types of projects to be supported, and announces such criteria and their relative importance in the annual program solicitation. The overriding purpose of these evaluations is to provide information upon which the Administrator may make informed judgments in selecting proposals for ultimate support. Incomplete, unclear, or poorly organized applications will work to the detriment of applicants during the peer evaluation process. To ensure a comprehensive evaluation, all applications should be written with the care and thoroughness accorded papers for publication.

(b) *Disposition.* On the basis of the Administrator's evaluation of an application in accordance with paragraph (a) of this section, the Administrator will (1) approve support using currently available funds, (2) defer support due to lack of funds or a need for further evaluations, or (3) disapprove support for the proposed project in whole or in part. With respect to approved projects, the Administrator will determine the project period (subject to extension as provided in § 3200.7(c)) during which the project may be supported. Any deferral or disapproval of an application will not preclude its reconsideration or a reapplication during subsequent fiscal years.

§ 3200.6 Grant awards.

(a) *General.* Within the limit of funds available for such purpose, the awarding official shall make grants to those responsible, eligible applicants whose proposals are judged most meritorious in the announced program areas under the evaluation criteria and procedures set forth in this part. The date specified by the Administrator as the beginning of the project period shall be no later than September 30 of the Federal fiscal year in which the project is approved for support and funds are appropriated for such purpose, unless otherwise permitted by law. All funds granted under this part shall be expended solely for the purpose for which the funds are granted in accordance with the approved application and budget, the regulations of this part, the terms and conditions of the award, the applicable Federal cost principles, and the Department's "Uniform Federal Assistance Regulations" (part 3015 of this title).

(b) *Grant award document and notice of grant award*—(1) Grant award document. The grant award document shall include at a minimum the following:

(i) Legal name and address of performing organization or institution to whom the Administrator has awarded a competitive grant under the terms of this part;

(ii) Title of project;

(iii) Name(s) and address(es) of principal investigator(s) chosen to direct and control approved activities;

(iv) Identifying grant number assigned by the Department;

(v) Project period, specifying the amount of time the Department intends to support the project without requiring recompetition for funds;

(vi) Total amount of Departmental financial assistance approved by the Administrator during the project period;

(vii) Legal authority(ies) under which the grant is awarded;

(viii) Approved budget plan for categorizing allocable project funds to accomplish the stated purpose of the grant award; and

(ix) Other information or provisions deemed necessary by the Department to carry out its granting activities or to accomplish the purpose of a particular grant.

(2) *Notice of grant award.* The notice of grant award, in the form of a letter, will be prepared and will provide pertinent instructions or information to the grantee that is not included in the grant award document.

(c) *Types of grant instruments.* The major types of grant instruments shall be as follows:

(1) *New grant.* This is a grant instrument by which the Department agrees to support a specified level of effort for a project that generally has not been supported previously under this program. This type of grant is approved on the basis of peer review recommendation.

(2) *Renewal grant.* This is a grant instrument by which the Department agrees to provide additional funding for a project period beyond that approved in an original or amended award, provided that the cumulative period does not exceed the statutory limitation. When a renewal application is submitted, it should include a summary of progress to date from the previous granting period. A renewal grant shall be based upon new application, *de novo* peer review and staff evaluation, new recommendation and approval, and a new award instrument.

(3) *Supplemental grant.* This is an instrument by which the Department agrees to provide small amounts of additional funding under a new or renewal grant as specified in paragraphs (c)(1) and (c)(2) of this section and may involve a short-term (usually six months or less) extension of the project period beyond that approved in an original or amended award. A supplement is awarded only if required to assure adequate completion of the original scope of work and if there is sufficient justification to warrant such action. A request of this nature normally will not require additional peer review.

(d) *Funding mechanisms.* The two mechanisms by which new, renewal, and supplemental grants shall be awarded are as follows:

(1) *Standard grant.* This is a funding mechanism whereby the Department agrees to support a specified level of effort for a predetermined time period without the announced intention of providing additional support at a future date.

(2) *Continuation grant.* This is a funding mechanism whereby the Department agrees to support a specified level of effort for a predetermined period of time with a statement of intention to provide additional support at a future date, provided that performance has been satisfactory, appropriations are available for this purpose, and continued support would be in the best interests of the Federal government and the public. This kind of mechanism normally will be awarded for an initial one-year period, and any subsequent continuation project grants will also be awarded in one-year increments. The award of a continuation project grant to fund an initial or succeeding budget period does not constitute an obligation to fund any subsequent budget period. Unless prescribed otherwise by CSRS, a grantee must submit a separate application for continued support for each subsequent fiscal year. Requests for such continued support must be submitted in duplicate at least three months prior to the expiration date of the budget period currently being funded. Decisions regarding continued support and the actual funding levels of such support in future years usually will be made administratively after consideration of such factors as the grantee's progress and management practices and the availability of funds. Since initial peer reviews are based

upon the full term and scope of the original special grant application, additional evaluations of this type generally are not generally required prior to successive years' support. However, in unusual cases (e.g., when the nature of the project or key personnel change or when the amount of future support requested substantially exceeds the grant application originally reviewed and approved), additional reviews may be required prior to approving continued funding.

(e) *Obligation of the Federal Government.* Neither the approval of any application nor the award of any project grant shall legally commit or obligate the United States in any way to make any renewal, supplemental, continuation, or other award with respect to any approved application or portion of an approved application.

§ 3200.7 Use of funds; changes.

(a) *Delegation of fiscal responsibility.* The grantee may not in whole or in part delegate or transfer to another person, institution, or organization the responsibility for use or expenditure of grant funds.

(b) *Change in project plans.*

(1) The permissible changes by the grantee, principal investigator(s), or other key project personnel in the approved grant shall be limited to changes in methodology, techniques, or other aspects of the project to expedite achievement of the project's approved goals. If the grantee and/or the principal investigator(s) is uncertain whether a particular change complies with this provision, the question must be referred to the Administrator for a final determination.

(2) Changes in approved goals, or objectives, shall be requested by the grantee and approved in writing by the Department prior to effecting such changes. Normally, no requests for such changes that are outside the scope of the original approved project will be approved.

(3) Changes in approved project leadership or the replacement or reassignment of other key project personnel shall be requested by the grantee and approved in writing by the Department prior to effecting such changes.

(4) Transfers of actual performance of the substantive programmatic work in whole or in part and provisions for payment of funds, whether or not Federal funds are involved, shall be requested by the grantee and approved in writing by the Department prior to effecting such changes unless prescribed otherwise in the terms and conditions of a grant to a recipient other than a Federal agency or State or local government.

(c) *Changes in project period.* The project period determined pursuant to § 3200.5(b) may be extended by the Administrator without additional financial support, for such additional period(s) as the Administrator determines may be necessary to complete, or fulfill the purposes of, an approved project. Any extension, when combined with the originally approved or amended project period, shall not exceed five (5) years (the limitation established by statute) and shall be further conditioned upon prior request by the grantee and approval in writing by the Department unless prescribed otherwise in the terms and conditions of a grant to a recipient other than a Federal agency or State or local government.

(d) *Changes in approved budget.* The terms and conditions of a grant to a recipient other than a Federal agency or State or local government will prescribe circumstances under which written Departmental approval must be requested and obtained prior to instituting changes in an approved budget.

§ 3200.8 Other Federal statutes and regulations that apply.

Several other Federal statutes and/or regulations apply to grant proposals considered for review or to grants awarded under this part. These include but are not limited to:

7 CFR part 3—USDA implementation of OMB Circular A–129 regarding debt collection.

7 CFR 1.1—USDA implementation of Freedom of Information Act.

7 CFR part 15, subpart A—USDA implementation of title VI of the Civil Rights Act of 1964.

7 CFR part 3015—USDA Uniform Federal Assistance Regulations, implementing OMB directives (i.e., Circular Nos. A–102, A–110, A–87, A–21, and A–122) and incorporating provisions of 31 U.S.C. 6301–6308 (formerly, the Federal Grant and Cooperative Agreement Act of 1977, Pub. L. 95–224), as well as general policy requirements applicable to recipients of Departmental financial assistance.

7 CFR part 3016—USDA Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments;

7 CFR part 3017, as amended—USDA implementation of Governmentwide Debarment and Suspension (Nonprocurement) and Governmentwide Requirements for Drug-Free Workplace (Grants), as amended;

7 CFR part 3018—USDA implementation of New Restrictions on Lobbying. Imposes new prohibitions and requirements for disclosure and certification related to lobbying on recipients of Federal contracts, grants, cooperative agreements, and loans;

29 U.S.C. 794, section 504—Rehabilitation Act of 1973, and 7 CFR part 15B (USDA implementation of statute), prohibiting discrimination based upon physical or mental handicap in Federally assisted programs;

35 U.S.C. 200 et seq.—Bayh-Dole Act, controlling allocation or right to inventions made by employees of small business firms and domestic nonprofit organizations, including universities, in Federally assisted programs (implementing regulations are contained in 37 CFR part 401).

§ 3200.9 Other conditions.

The Administrator may, with respect to any grant or to any class of awards, impose additional conditions prior to or at the time of any award when, in the Administrator's judgment, such conditions are necessary to assure or protect advancement of the approved project, the interests of the public, or the conservation of grant funds.

Subpart B—Scientific Peer Review of Research Grant Applications

§ 3200.10 Establishment and operation of peer review groups.

Subject to § 3200.5, the Administrator shall adopt procedures for the conduct of peer reviews and the formulation of recommendations under § 3200.14. Peer reviews of all responsive applications will be made by assembled groups of reviewers and/or by written comments solicited from *ad hoc* reviewers.

§ 3200.11 Composition of peer review groups.

(a) Peer review group members and *ad hoc* reviewers will be selected based upon their training and experience in relevant scientific or technical fields, taking into account the following factors:

(1) The level of formal scientific or technical education by the individual and the extent to which an individual is engaged in relevant research activities;

(2) the need to include as peer reviewers experts from various areas of specialization within relevant scientific or technical fields;

(3) The need to include as peer reviewers experts from a variety of organizational types (e.g., universities, industry, private consultant(s)) and geographic locations; and

(4) The need to maintain a balanced composition of peer review groups related to minority and female representation and an equitable age distribution.

§ 3200.12 Conflicts of interest.

Members of peer review groups covered by this part are subject to relevant provisions contained in title 18 of the United States Code relating to criminal activity, Departmental regulations governing employee responsibilities and conduct (Part O of this title) and Executive Order 11222, as amended.

§ 3200.13 Availability of information.

Information regarding the peer review process will be made available to the extent permitted under the Freedom of Information Act (5 U.S.C. 552), the Privacy Act (5 U.S.C. 552a.), and implementing Departmental regulations (part 1 of this title).

§ 3200.14 Proposal review.

(a) All grant applications will be acknowledged. Prior to technical examination, a preliminary review will be made for responsiveness to the program solicitation (e.g., relationship of application to announced program area). Proposals which do not fall within the guidelines as stated in the program solicitation will be eliminated from competition and will be returned to the applicant.

(b) All applications will be carefully reviewed by the Administrator, qualified officers or employees of the Department, the respective peer review group, and *ad hoc* reviewers, as required. Written comments will be solicited from *ad hoc* reviewers when required, and individual written comments and indepth discussions will be provided by peer review group members prior to recommending applications for funding. Applications will be ranked and support levels recommended within the limitation of total available funding for each research program area as announced in the program solicitation.

(c) No awarding official will make a grant based upon an application covered by this part unless the application has been reviewed by a peer review group and/or *ad hoc* reviewers in accordance with the provisions of this part and said reviewers have made recommendations concerning the scientific merit of such application.

(d) Except to the extent otherwise provided by law, such recommendations are advisory only and are not binding on program officers or on the awarding official.

§ 3200.15 Evaluation factors.

In carrying out its review under § 3200.14, the review group will take into account the following factors unless, pursuant to § 3200.5(a), different evaluation criteria are specified in the program solicitation:

(a) Scientific merit of the proposal.

(1) Conceptual adequacy of hypothesis;

(2) Clarity and delineation of objectives;

(3) Adequacy of the description of the undertaking and suitability and feasibility of methodology;

(4) Demonstration of feasibility through preliminary data;

(5) Probability of success of project; and

(6) Novelty, uniqueness and originality.

(b) Qualifications of proposed project personnel and adequacy of facilities.

(1) Training and demonstrated awareness of previous and alternative approaches to the problem identified in the proposal, and performance record and/or potential for future accomplishments;

(2) Time allocated for systematic attainment of objectives;

(3) Institutional experience and competence in subject area; and

(4) Adequacy of available or obtainable support personnel, facilities, and instrumentation.

(c) Relevance of project to long-range improvements in United States agriculture.

(1) Scientific contribution of research in leading to important discoveries or significant breakthroughs in announced program areas; and

(2) Relevance of the research to agricultural, environmental, or social needs.

Done at Washington, DC, this 12th day of August 1991.

John Patrick Jordan,

Administrator, Cooperative State Research Service.

[FR Doc. 91–19617 Filed 8–16–91; 8:45 am]

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August 19, 1991

Part VII

Department of Transportation

Federal Aviation Administration

14 CFR Part 93

Operation of Jet Aircraft in Commuter Slots at O'Hare International Airport; Final Rule

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 93

[Docket No. 26339; Amdt. No. 93-62]

RIN 2120-AE21

Operation of Jet Aircraft in Commuter Slots at O'Hare International Airport

AGENCY: Federal Aviation Administration (FAA), Department of Transportation, (DOT).

ACTION: Final rule.

SUMMARY: This action amends the regulations pertaining to the allocation and definition of commuter operator slots (i.e., allocated instrument flight rules (IFR) takeoff and landing reservations) at O'Hare International Airport. Under the rule as adopted, the FAA will permit a limited number of commuter slots at O'Hare International Airport to be used by aircraft having a maximum seating capacity of up to 110 passenger seats. This amendment is in response to a petition for rulemaking submitted by American Airlines and subsequent comments received on the petition and notice of proposed rulemaking. The FAA will limit the number of commuter slots available for operation of such aircraft to 25 percent of each operator's commuter slots at O'Hare International Airport, and limit the number of such operations in any half hour. This amendment will remain in effect for a 2-year period to allow the FAA to evaluate the effect of the change on the operation of the airport and air traffic facilities, and may be extended. This action will relieve airlines at O'Hare of certain existing restrictions and permit (but not necessarily result in) additional jet service to some smaller communities while still preserving the class of commuter slots as distinct from air carrier slots.

EFFECTIVE DATE: Rule effective September 18, 1991.

FOR FURTHER INFORMATION CONTACT: Patricia R. Lane, Office of the Chief Counsel, AGC-230, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591, Telephone: (202) 267-3491.

SUPPLEMENTARY INFORMATION:

Availability of Rule

Any person may obtain a copy of this rule by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA-230, 800 Independence Avenue, SW., Washington, DC 20591; or by calling (202) 267-8058. Communications must identify the amendment number of the rule. Persons interested in being placed on a mailing list for future notices should also request a copy of Advisory Circular No. 11-2A, which describes the application procedure.

Background

The High Density Traffic Airport Rule, or "High Density Rule," 14 CFR part 93, subpart K, was promulgated in 1969 to reduce delays at five congested airports: JFK International, LaGuardia, O'Hare International, Washington National, and Newark International (at which limits are no longer in effect 33 FR 17896, December 3, 1968). The regulation limits the number of operations at each airport, by hour or half hour, during certain hours of the day. The limits were most recently amended in April 1984 (49 FR 8237, March 6, 1984). While allocations vary from hour to hour, the basic allocation is 120 slots each hour at O'Hare for operations by air carriers, 25 slots each hour for commuter operators, and 10 slots each hour for general aviation. The operating limits are in effect at O'Hare from 6:45 a.m. to 9:15 p.m. The limits on operations by scheduled air carriers and commuter operators are enforced by the allocation of takeoff and landing "slots" to individual operators (14 CFR 93.125; subpart S).

On August 22, 1989, the Department published Amendment No. 93-57, a final rule which, among other changes, amended the definitions of "commuter" and "air carrier" aircraft in the High Density Rule (54 FR 34904; corrected 54 FR 37303, September 8, 1989). In response to the comments received and to the petition filed by Air Wisconsin to permit the use of larger propeller-driven aircraft in commuter slots, the FAA redefined commuter operations as those using turboprop or reciprocating aircraft having fewer than 75 passenger seats.

On September 21, 1989, the Department suspended the effectiveness of this amendment to the extent it would prohibit operations by turbojet aircraft with fewer than 56 seats using commuter slots, to consider information presented by manufacturers currently developing small turbojet aircraft intended for commuter operations (54 FR 39843, September 28, 1989).

As a result, commuter slots currently may be used only with propeller-driven aircraft certificated with a maximum passenger seating capacity of fewer than 75 and turbojet aircraft with a maximum seating capacity of fewer than 56. The air carrier/commuter slot distinction was incorporated in the original High Density Airport Traffic Rule adopted in 1969 to protect the regional airline industry and to preserve air service in smaller, "commuter" markets within a short to medium range of the high density airports.

The American Airlines And Canadair Petitions

On September 6, 1990, American Airlines (AAL) filed a petition for rulemaking to permit the operation of Stage 3 jet aircraft with up to 110 passenger seats in commuter slots at O'Hare Airport. AAL argued that the change would permit it to upgrade service in a number of smaller markets from turboprops to jets. The FAA published the petition on October 2 with a 60-day comment period (55 FR 40191; 55 FR 46956, November 8, 1990).

In response to the AAL petition, Canadair filed a separate petition for rulemaking on December 3, 1990, requesting that its petition be consolidated with the AAL petition because of its related subject matter. Specifically, Canadair requested that the definition of "scheduled commuter," as defined in § 93.123(c), be amended to include in the definition of commuter aircraft turbojet aircraft with a maximum seating capacity of fewer than 56 seats.

Currently, the 435 commuter slots at O'Hare are allocated to three carriers as follows:

Carriers	Amount	Percent
American (AMR Eagle, Simmons)	281	65
Air Wisconsin	118	27
Great Lakes	36	8
Total	435	

Notice 91-13

On May 8, 1991, the FAA proposed to amend FAR part 93, subpart K and subpart S, (1) to clarify that the definition of commuter aircraft under the High Density Rule includes turbojet aircraft having a maximum passenger seating capacity of fewer than 56 seats. and (2) to permit the temporary operation of turbojets (or other aircraft) with a maximum passenger seating capacity of 110 in certain commuter slots at O'Hare International Airport, subject to specific conditions. (56 FR 21404.) The FAA proposed to limit the maximum number of commuter slots that could be operated with air carrier aircraft under the proposed rule to 25 percent of the total number of commuter slots held by each slot holder at O'Hare. The cap was proposed in order to limit

potential effects on airport operations and preserve at least 75 percent of existing commuter slots used for small community service.

The second condition proposed was that the number of commuter slots that could be used for operation of aircraft with 56 or more seats would be limited to a maximum number of each half hour (beginning at 0645) and for each two consecutive half hours. During most hours of the day, the limit would be a total of six in each half hour (beginning at 0645) and a total of 10 in any two consecutive half hours. In peak traffic hours the operations would be limited to two per half hour.

The peak hours in which the limitation to two per half hour would apply were proposed as follows:

1015 through 1244
1715 through 1944

Third, the Notice proposed that a carrier would be required to notify ATC 60 days in advance of the planned operation of a commuter slot with a 56- to 110-seat aircraft. ATC would have the authority to disapprove a request based on actual conditions at the time of the request, and also to grant a request with such conditions as operating only as an arrival or departure. ATC's approval, conditional approval, or disapproval would be issued more than 45 calendar days before the planned start date stated in the notice. ATC approval for a specific operation would be valid for 30 days after the planned start date, and then would expire if the operation had not commenced.

Fourth, the FAA proposed that any carrier intending to operate a commuter slot with a 56- to 110-seat jet aircraft must have sufficient gates available for those operations, to prevent ramp and taxiway congestion from additional jet operations.

Finally, the FAA proposed that the amendment be limited to a 2-year period in order to evaluate the impact on airport operations (especially delays) and on ATC resources and workload. At the end of 2 years, existing operations under this provision could be extended for an additional 1-year period pending a study of impacts and rulemaking to revise, expand, or curtail the program.

Comments on the Notice

FAA received more than 300 comments in response to Notice 91–13. A number of commenters representing communities promised or hoping for service by American Airlines supported the proposed rule on the basis of a presumption of improved air service to the commenter's community. These comments tended to be similar or identical to arguments that corresponded to the position taken by American. Several commenters opposed the rule, because of the potential increase in operating delays at O'Hare Airport and surrounding airspace or the potential adverse impact on small communities that would not support jet service. Other commenters supported the rule only on the condition that restrictions were imposed on the additional jet operations. The comments are summarized by subject.

Justification for the Rule

American and most of the commenters supporting the proposal offered the justification that the proposed rule would result in improved air service, i.e., service by jets rather than turboprops, from O'Hare Airport to approximately eight cities in the Midwest and Pennsylvania. This benefit is claimed only for the cities named in the American petition for rulemaking, and would be realized only if American actually initiates and continues jet service to those cities.

Under the Airline Deregulation Act of 1978, American and other carriers operating under the proposed rule can begin or cease service in any domestic market at any time without Government approval (with certain exceptions under the Essential Air Service program). Accordingly, there is no assurance that the communities anticipating service by American (and supporting the proposed rule) will be the actual beneficiaries of the additional jet operations at O'Hare. However, in view of the operating characteristics of the Fokker 100 and most other aircraft which would qualify for operation in commuter slots under the rule, the FAA believes it likely that operations under the rule will primarily benefit regional markets. Because the FAA cannot be certain of the cities which will benefit from the rule and cannot know if turboprop service to other cities may be cancelled to furnish commuter slots for new jet service elsewhere, the FAA does not treat improved air service to the cities named by American as supporting rationale for the rule.

On the other hand, the FAA believes that restrictions on access to airports and the National Airspace System should be the minimum necessary for safe and efficient movement of air traffic. To the extent American has identified a limited relaxation of High Density Rule restrictions at O'Hare Airport which will not adversely affect existing congestion and operating delays, and which will continue to provide commuter slots for service to smaller communities, the FAA believes that the requested measures can and should be adopted in the public interest. The actual measures adopted by the FAA are not precisely those requested by American, because the reduction in restrictions must apply to all eligible carriers, and because the agency intends to review the impacts of the new operations before further altering operating restrictions at O'Hare.

Aircraft Eligible To Use Commuter Slots (110-Seat Cutoff)

In its petition, American Airlines requested that jet aircraft with a certificated maximum passenger seating capacity of up to 110 seats be permitted to use commuter slots at O'Hare. The FAA proposal incorporated the 110-seat cutoff, but did not limit eligibility to jet aircraft. The City of Chicago and Continental Airlines suggested alternative criteria for the aircraft eligible to use commuter slots, including aircraft weight, wake turbulence characteristics, and aircraft performance. From an air traffic control standpoint, there is not a significant difference between aircraft in the 100–110 seat range such as the Fokker 100, and slightly larger jets such as smaller models of the DC–9 and Boeing 737 which would be permitted under the criteria suggested by the commenters. Approach and departure speeds and wake turbulence separation are similar for all such aircraft, although cruise speed and service ceiling may make some aircraft more suitable than others for service on medium- and long-haul routes. Amendment of the rule as suggested would have little effect at O'Hare at the present time, however. American apparently requires all of its portion of the eligible commuter slots for its new Fokker 100 operations; Air Wisconsin's jets are mostly (or all) fewer than 110 seats and are eligible for operation under the rule as proposed; and Great Lakes operates only aircraft that meet the existing definition of commuter aircraft and, therefore, would not be directly affected by the rule. Expanding the rule to cover aircraft of similar weight and performance but with higher seating levels will be considered in any extension or modification of the current rule or adoption of a similar rule at other high density traffic airports. However, because the suggested change in criteria would have no immediate effect, and would perhaps create more of an incentive for carriers to abandon regional markets in favor of longer-haul routes, the FAA is adopting the 110-seat criterion proposed in Notice 91–13.

Service to Small Communities

As mentioned previously, many commenters from communities such as Peoria and Springfield, Illinois; Fargo, North Dakota; Sioux Falls, South Dakota; and Madison, Wisconsin supported the proposed rule, with fewer restrictions than proposed by FAA, because of the expectation of receiving new or additional jet service from O'Hare Airport. Other commenters, including carriers, community representatives, and individuals, expressed concern that the proposal would serve as an incentive to discontinue turboprop commuter service between O'Hare and cities which do not generate sufficient traffic to support jet service.

The rule has no certain effect on service to any particular community. The rule simply reduces restrictions on the use of slots; it is each eligible carrier's decision whether to take advantage of the change, and if it does, whether to serve the same markets as in the past or to shift service to different markets. A carrier may well discontinue turboprop service in one market to add jet service in another market, as some commenters predict. It is also possible that the substitution of jets with approximately 100 passenger seats for small turboprop aircraft in a market may permit the carrier to serve the market with fewer flights per day, thereby actually freeing commuter slots for use elsewhere.

The FAA has retained several limitations on the use of slots which will limit the adverse effects of the adopted rule on smaller communities. First, the rule retains in the High Density Rule the general category of commuter slots, which are limited to use by turboprops and jets of a size suitable only for regional air service. Second, the FAA has limited the use of commuter slots for larger (but still relatively small) jets under this rule to no more than 25% of each carrier's commuter slots. Finally, the rule does not change the Department's control exercised over slots obtained by the Department for operations in accordance with an Essential Air Service (EAS) Program determination; such slots would be eligible for use with a 110-seat aircraft under this rule, but only in the same market, unless the Office of the Secretary of Transportation specifically approved the change (14 CFR 93.219, § 93.221(a)(6)).

While the review of the adopted rule during the 2 years following implementation is intended primarily to assure that the rule has no adverse effects on airport operations or ATC, the Office of the Secretary will, during the same period, consider the effects of implementation of the rule on air service to smaller communities.

Effect on Airport Delays and ATC

A number of commenters addressed the issue of whether the additional jet operations that would result from the proposed rule would add to the traffic congestion and operating delays that now exist at O'Hare Airport. O'Hare, with its current mix of jet and propeller-driven aircraft, has the third highest rate and the highest number of operating delays on all U.S. airports. Commenters differed on whether the number and timing of operations that would result from the proposed rule would have any effect on airport operations, and if so, whether airport delays would decrease or increase. As expressed in Notice 91–13, the FAA considers it highly likely that a substantial number of additional jet operations, even if offset by a reduction in turboprop operations, would adversely affect delays at O'Hare and in en route airspace in the Chicago region. Accordingly, the FAA proposed several limits on the extent of the possible operations under the rule, including a limit on the percentage of each carrier's commuter slots that could be used with aircraft up to 100 seats; a general limit on the maximum number of such operations each 30- and 60-minute period; and a more restrictive limit on operations per 30-minute period in peak traffic hours. The comments on the various restrictions are discussed separately.

The 25% Limit

In its NPRM, the FAA proposed to limit the maximum number of commuter slots that could be operated with aircraft having 56 to 110 seats to 25% of the total number of commuter slots held by a carrier. This 25% limit derived from the FAA's assessment that a higher limit would exacerbate ground and flight congestion at and around O'Hare. A second purpose, supported by the State of Michigan and other commenters, was to assure slots for small communities served only by smaller aircraft. Finally, application of the limit to each carrier assured that no single carrier would monopolize the opportunities presented by the proposal.

In its comments, American asked to raise the limit to 35%. Several businesses and political representatives who desire new or increased jet service to their communities asked for a further increase to 40% in two years. The basis for American's request was its claim that it could accommodate approximately 71 additional jet departures and arrivals (142 slots) at its existing gates, and will be adding more gates; American holds 281 slots through subsidiaries and therefore could theoretically accommodate the additional jets under a 35% limit. American commented that a 25% limit will prevent it from serving all the cities to which it wishes to fly Fokker 100's.

The City of Chicago Department of Aviation suggested that the 25% limit appeared to be conservative but did not suggest a higher limit. The Department of Aviation further commented that delays are incurred through miles-in-trial restrictions imposed between successive aircraft due to system inefficiencies and did not believe that delays would necessarily result from the substitution of jet aircraft for commuter turboprops if those inefficiencies were addressed. It asserted that efficiency should increase as the aircraft fleet mix becomes more homogeneous. Holding a differing view, Northwest Airlines commented that even a 25% limit would affect air carrier congestion in and beyond the Great Lakes area, and Northwest was uncertain if the limit would suffice to avoid exacerbation of delays. United Air Lines exhorted the FAA to retain the 25% limit and commented that the consequences were unclear if that limit were raised.

None of the comments denied that operations at high altitude would be affected by the rule. American and others suggested that flights under 24,000 feet would not introduce additional delays at O'Hare or en route in the region controlled by Chicago Center. The FAA draws no such distinction. As discussed below under "Exception for flights below 24,000", the amended rule could encourage concentrations in jet traffic patterns at O'Hare, exacerbating delays as more aircraft must join the sequence farther out, while the approach patterns for commuter turboprops become underutilized. Although the 25% limit may constrain American in the number of flights it can operate with Fokker 100 aircraft using commuter slots, the FAA believes the limit is necessary to prevent additional jet operations from increasing airport delays for all operations at O'Hare.

The FAA's second concern focuses on the Department of Transportation's interest in service to small and medium communities. American, which, through Simmons and American Eagle, holds most of the commuter slots eligible for use with aircraft up to 110 seats, has represented that it will use those slots to provide jet service to approximately eight small and medium communities.

Currently, American holds certain underutilized slots that could be used to provide air service to these communities. Several commenters were concerned about the effect on other communities, however. As the State of Michigan observed, "the present system of two slot pools (air carriers and commuters) provides the best assurance of continuing medium and small community air service as outlined in section 419 of the Airline Deregulation Act of 1978." USAir commented that the amended rule would undermine the distinction between these two slot pools.

The State of Michigan found its ability to recruit air services inhibited by the lack of slots available to commuters through purchase or trade, and commented that an allowance greater than 25% would not be in the best interest of small community air service. Great Lakes Aviation, a commuter with slots at O'Hare, commented that, even with the 25% limitation, the proposed rule would reduce the number of slots available to it for possible trades, and thereby hamper its ability to schedule services to meet small communities' needs. Pan Am Express commented that small communities will lose service under the rule as proposed, and Delta commented that such loss may invite reregulation.

The FAA agrees that the rule adopted poses a potential loss of service to small communities that cannot support jet service, depending on the decisions of carriers that currently hold commuter slots at O'Hare. The 25% limit on the use of commuter slots by aircraft up to 110 seats will cap the extent of that potential loss of service. The Office of the Secretary of Transportation will use the 2-year trial period to monitor the effect of the amended rule on service to small communities. The results of that review will be considered in any extension or modification of the rule.

Finally, applying the 25% limit on a per carrier basis will preclude potential monopolization by a single carrier of the commuter slots eligible for operation with aircraft up to 110 seats. Although comments were received on the allocation process (discussed below under "Allocation of operations under the rule among the carriers holding commuter slots at O'Hare"), no commenters suggested an alternative basis for determining how many commuter slots each carrier could use with 110-seat aircraft, other than providing no limit at all or allocating a higher percentage of slots for such use to all carriers.

The FAA believes that operations under the amended rule in excess of 25% of the total of commuter slots could significantly increase en route and airport delays. Larger aircraft permitted under the rule adopted generally fly at higher altitudes, have higher approach speeds, require longer runways, and have a greater impact on ramp congestion than the commuter aircraft currently using the slots that this amendment will affect. The limit also serves to preserve slots for operations in markets that would not sustain aircraft with greater seating capacities. Basing the allocation on a holder's current inventory of commuter slots precludes potential monopolization of the slots eligible for use with aircraft up to 110 seats. The FAA therefore has retained the 25% limit in the final rule adopted.

The 30/60 Minute Restriction

To prevent periodic concentrations of operations with aircraft up to 110 seats, the FAA proposed to restrict the number of eligible slots to six in each half hour and ten in any two consecutive half-hours. During the peak periods of 1015 through 1244 and 1715 through 1944, the use of commuter slots by larger aircraft would be further restricted to two per half hour.

American, its employees' union, and several communities asked to remove these restrictions from the final rule based on their common belief that the additional operations would not exacerbate air traffic congestion. American alternatively suggested that the time restrictions, if they must be imposed, be imposed per carrier, but only for operations above 24,000 feet. It further commented that the gate limitations requirement combined with the High Density Rule would preclude concentrations of operations within a given time frame. American did not provide information that controverted the FAA's conclusion that additional jet operations beyond those allowed by this amendment would have an adverse effect on airport and en route operating delays.

United and Northwest agreed with the FAA that these time restrictions are needed to minimize the burden on ATC and the impact on operations on and around the airport. United believed that expansion of the restriction could adversely affect operations to the substantial detriment of all passengers. Northwest was even uncertain whether the restrictions were sufficient to avoid additional delays and Delta Air Lines commented that the proposed rule did not contain adequate safeguards. Pan Am Express commented that jet operations could increase 10% in most half-hour increments during the daytime under the amended rule. The State of Michigan voiced a concern that the number of non-peak slots allowed under the amended rule was too high.

The FAA has concluded that, absent time restrictions, substitution of aircraft up to 110 seats for the commuter airplanes permitted under the original rule will add undue burdens on ATC airspace management and ground operations at O'Hare. If the substitution allowed under the rule is not restricted as the FAA proposed, additional delays in the air and on the ground at O'Hare, where overall operations are already at capacity, could be expected. Applying the same restriction to each carrier, which could double or triple the limit proposed by the FAA, fails to assure that the additional operations will not be unacceptably concentrated at certain times. It is very likely that, absent time restrictions, operations would be concentrated in peak periods, exacerbating delays, especially in adverse weather conditions. Until the FAA has actual experience indicating that operations under the rule adopted could be increased without further impact, the FAA believes that the proposed 30- and 60-minute restrictions represent the current practical limit of additional operations with aircraft up to 110 seats at O'Hare without exacerbating existing delays and congestion. Accordingly, the final rule retains the 30- and 60-minute restrictions.

Exception for Operations Below 24,000 Feet

Nearly all the air carrier commenters acknowledged that, because jets generally operate at higher altitudes, the substitution of jet aircraft for turboprops will add to the congestion of traffic at those higher altitudes. As Northwest commented, Chicago Center handles through traffic as well as flights to and from O'Hare, and the extra burden of jet operations at high altitude would contribute to delays at Detroit, Minneapolis, and other cities as well as congestion at O'Hare.

American commented that 75% of its small jet operations will be below 24,000 feet and those operations therefore will not affect high altitude airspace. American further commented that if the FAA's proposed 25% limit were raised to allow operation of 35% of the commenter slots at O'Hare with aircraft having up to 110 seats (see discussion above under "The 25% limit"), about 30 of its flights per day would be in high altitude airspace.

Supported by the communities whose comments it solicited, American suggested that flights below 24,000 feet

above mean sea level (MSL) feet be exempted from the 25% limit and the time period restrictions. The Chicago Department of Aviation commented, as did American, that the exchange of jets for commuter turboprops would not necessarily cause additional airspace delays at low altitude. The Department of Aviation's comments also recognized, however, that further delays might result under current ATC procedures as the added jet aircraft stretched out the traffic due to miles-in-trail restrictions imposed between successive aircraft.

Operations below as well as above 24,000 feet MSL affect the efficiency of en route operations and airport arrivals and departures. While high altitude sectors have a base of 24,000 feet MSL, a significant amount of en route traffic uses altitudes below that level. Chicago Center is responsible for control of aircraft beginning at 12,000 feet MSL on handoff from Chicago Radar Approach Control in the vicinity of O'Hare, and at lower altitudes elsewhere. As Pan Am Express observed, jet aircraft and turboprops use different approach patterns with different altitudes, separations and runway lengths. The amended rule, if unrestricted as American suggests, would concentrate traffic in the jet approach pattern and leave the commuter approach patterns underutilized. Restricting the substitution of jets for turboprops, however, regardless of their cruise altitude, will enable ATC to take advantage of O'Hare's runway configuration in handling a mixture of landing and departing aircraft.

The FAA must restrict the slot allocations as proposed to minimize possible additional congestion. The final rule therefore contains no exemption for flights conducted below 24,000 feet MSL.

Definition of Gates

The rule as proposed required that a gate be available without planned waiting time for operations of aircraft up to 110 seats in commuter slots. Air Wisconsin commented that the term "gate" needed clarification and suggested substituting "parking position." By contrast, American requested that jetbridges be required for jets operating under this amendment. American commented that the use of jetbridges reduces the number of passengers crossing ramp areas and decreases aircraft congestion on taxiways and ramps. American has represented that it has jetbridges available and will use them for its Fokker 100 operations.

Air Wisconsin commented that it currently uses ramp parking in assigned positions at a single gate for the British Aerospace 146 jet aircraft it operates in its air carrier slots. It further commented that it can accommodate up to 13 aircraft at one time and operates both its ATP turboprop and British Aerospace 146 jet aircraft, which has a smaller wingspan than the ATP, from the parking positions at that gate. Air Wisconsin said it has operated both jet and turboprop aircraft for a long time from its one gate at O'Hare without encountering any of the problems American predicts will occur if jetbridges are not required.

The FAA expressed in the NPRM its concern about the further ramp congestion that might result from this amendment. The purpose of the gate requirement is to prevent ramp and taxiway congestion that could result from operations of larger aircraft that cannot use the gates/parking positions used by the turboprop aircraft they replace. Ground operations at O'Hare cannot tolerate the further congestion that would result under this amended rule if jets are backed up on the ramp or taxiway while waiting for a parking position to become available to disembark passengers. Because ramp parking positions are now used by Air Wisconsin for jet operations without problem, the FAA will not require use of jetbridges at this time. The FAA does not intend the rule adopted, however, to permit an increase in the use of ramp parking for jets.

Accordingly, the term "gate" will be interpreted for this purpose to include jetbridges and also ramp parking areas routinely used on the issuance date of this rule for jet aircraft passenger embarking and disembarking. All additional gates used for operations under this amendment must be jetbridges. The FAA will closely monitor the impact of the rule adopted on ground congestion and passenger safety.

2-year Limit on the Rule

Several commenters requested the FAA to delete the provision, as proposed in Notice 91–13, that would limit the effectiveness of this rule to a 2-year time period. In particular, AAL and representatives of several communities commented that the ability to use larger aircraft in commuter slots should be a permanent change to the High Density Rule. United, Northwest, Delta, USAir, Pan Am Express, and other commenters, on the other hand, believed that the FAA should study the effects of the rule prior to making the changes permanent and, therefore, supported the 2-year limitation.

The FAA believes that further review of the effects of the rule on airport operations and on the air traffic control system is important, in the event that the rule has adverse effects which recommend against permanent adoption. Therefore, the agency has retained the 2-year limitation on the effectiveness of this rule. However, the FAA agrees with American and other commenters that if the rule is working without significant problems, it should not be permitted to expire pending rulemaking to extend it. Accordingly, the rule as adopted provides that if the FAA determines that the rule should be extended or that further study is warranted, the Administrator of the FAA may extend the effectiveness of this amendment under the present terms by publishing notice of the extension in the **Federal Register** prior to the expiration of the time period.

Furthermore, the FAA does not consider it necessary to delay changes for the entire 2-year period if it becomes clear within that time that additional operations will not cause operational problems. That determination cannot be made until there has been some period of operation with all or most of the additional jet operations permitted under this amendment. If the additional jet (or other 75–110 seat aircraft) operations are determined not to have an adverse effect on ATC or airport congestion and delay, then the FAA will consider petitions to revise further the limits on use of commuter slots at that time.

Delta and Pan Am Express both requested the FAA to develop objective criteria by which to evaluate the effect that this rule has on the ATC system and on service to smaller communities. The FAA continually reviews the operational efficiency and safety of the air traffic system and will monitor the effects of the use of larger aircraft in certain commuter slots. The agency will evaluate operation under the rule and make a determination as to whether changes in this rule would be detrimental or advantageous to the air traffic system.

As to the effect that the rule would have on service to smaller communities, the development of objective criteria would be difficult, because with the exception of service to points eligible for an EAS determination, there is no objective Federal standard for air service to a community. In general, the Department will attempt to identify any increase or decrease in the quantity or quality of flights and the number of communities served by commuter flights from O'Hare.

Allocation of Operations under the Rule Among the Carriers Holding Commuter Slots at O'Hare.

In Notice 91–13, the FAA proposed to allocate the limited number of commuter slots each half hour that could be used with aircraft up to 110 seats on a first-come first-served basis. The date used for comparing competing requests was the actual start date rather than the date of request, to preclude one carrier from tying up all of the most favorable times by making an early request. Great Lakes Aviation did not comment on this part of the proposal. American and Air Wisconsin, the two other carriers holding commuter slots at O'Hare, both objected to the proposed allocation mechanism because of the potential adverse effect on competition.

American first argued for applying the 30- and 60-minute limitations to each carrier rather than all carriers, in effect doubling or tripling the potential number of additional jet operations in peak hours and nullifying the purpose of the allocation procedure altogether. For reasons discussed under "30/60-minute limitation," the FAA has not accepted this request. American objected to a first-come first-served allocation procedure based on starting date; American's jet operations will be phased in over time, while Air Wisconsin already has small jets and can start operations under the rule almost immediately. Air Wisconsin also objected to the first-come first-served procedure. As an alternative, Air Wisconsin recommended a procedure by which the carrier that had used the lowest percentage of its eligible commuter slots would have first pick of the next slot time, to maintain a continuing proportionality among competing carriers.

The FAA does not agree with American that the number of operations under the temporary program should simply be increased to resolve allocation issues, for the reasons discussed in Notice 91–13. The FAA agrees with both commenters on the inherent difficulties of a first-come first-served procedure for this purpose, and agrees with Air Wisconsin that a competitive environment is best maintained by a proportional allocation (i.e., proportional to the total number of commuter slots held by each carrier). The FAA does not find the complex procedure recommended by Air Wisconsin to be feasible, however.

Accordingly, the FAA has adopted a simple lottery procedure for the allocation of the commuter slot times eligible for use with airacraft up to 110 seats. Within 21 days of the date of issuance of this rule, the FAA will hold a special lottery among the three carriers holding commuter slots at O'Hare Airport. In accordance with the general lottery procedures in 14 CFR 93.225, the order of selection will be determined by random draw. Each participant will select two slots per turn in the order determined by the draw, until all eligible slot times are selected. The times selected may be traded among the participants after the lottery, upon confirmation by the FAA Slot Administration Office in accordance with 14 CFR 93.221. Notice to ATC and approval of operation in the times selected would still be required.

The procedure adopted accepts the relaxation of High Density Rule restrictions requested by American Airlines, and makes the benefits of the lesser restrictions available to all eligible carriers in proportion to their slot holdings. The FAA acknowledges that the result may not permit American to operate all of the additional jet operations it has requested. However, a change in the operating limitations applicable to commuter slots must apply equally to all holders of commuter slots. As holder of 65 percent of commuter slots at O'Hare, American is still the primary beneficiary of the change.

Air Wisconsin also requested that a "use-or-lose" requirement be applied to the commuter slot times eligible for use with commuter aircraft. The FAA has not incorporated a minimum use requirement for operation by 56–110 seat aircraft in the commuter slots selected. The program is voluntary, and there is no need from the standpoint of either air service or efficient operation of O'Hare Airport to ensure that all eligible slots are used by jet aircraft within a certain time. The minimum slot use requirement of 14 CFR 93.227(a) continues to apply to all commuter slots.

Applicability to Other Airports

The Port Authority of New York and New Jersey, Continental Airlines, and USAir requested that the proposed rule be extended to other high density traffic airports in addition to O'Hare, specifically LaGuardia Airport in New York. The rule adopted essentially grants a longstanding request by USAir to permit the use of 63- and 68-seat turbojets in commuter slots, albeit only at O'Hare Airport. USAir does not hold commuter slots at O'Hare. The application of the rule adopted to any airport other than O'Hare would be outside the scope of Notice 91–13, and could not be adopted without further notice and request for comments on that specific subject. While the FAA has not made a decision not to consider extension of the rule to other airports, a change in the commuter/jet aircraft mix would have different effects at each of the other high density airports, and the FAA will not take such action without further rulemaking.

Limitation to Stage 3 Aircraft

American Airlines, the City of Chicago Department of Aviation, and other commenters requested that the operation of aircraft with 56 to 110 seats in commuter slots be limited to Stage 3 aircraft, which meet more stringent noise standards on takeoff and landing than Stage 2 aircraft. American Airlines' petition requested limitation to Stage 3 aircraft, but the FAA did not include this restriction in its proposed rule because recent legislation provides for a nationwide transition to an all-Stage 3 fleet by 1999. While the FAA supports the use of quieter aircraft, there is no reason to impose special environmental restrictions on the particular aircraft used in operations under this rule. Accordingly, the FAA has not included a Stage 3 restriction in the rule adopted.

Pilot Contracts

Two organizations representing pilots of commuter aircraft commented that the shift from turboprop to jet aircraft operations would adversely affect their member pilots. The concern is that if larger aircraft can be used in a commuter slot, there would be fewer commuter flights using the smaller aircraft and, therefore, less demand for pilots qualified to fly the smaller commuter aircraft. The FAA recognizes that an employing carrier's decision to substitute one type of aircraft for another may affect the crewmembers trained on one aircraft and not the other. The agency believes that the issue is most appropriately resolved through the collective bargaining process between employers and representative organizations, and should not affect the decision to amend airport operating restrictions.

Environmental Review

This rule, as adopted, will not increase the number of total aircraft operations at O'Hare, but will permit the use of larger aircraft (56 to 110 seats) in up to 25% of the commuter slots at O'Hare. The use of 25% of the commuter slots for larger aircraft will mean that no more than 108 of the 435 commuter slots may be used by turbojet aircraft instead of turboprop aircraft. (While the rule permits any aircraft with 56 to 110 passenger seats to be used in commuter slots, the FAA presumes that carriers will choose to operate turbojets.)

The total number of daily turbojet operations at O'Hare is 1,670. Therefore, it all 108 available commuter slots are used by turbojet aircraft, there will be an additional approximate 6% of turbojet activity at the airport during slot-restricted hours. The only potentially significant environmental concern in the O'Hare area that could result from the implementation of this rule would be the possible increase in noise as a result of the 6% increase in the number of turbojet activity.

The FAA performed a noise analysis of the increase in turbojet activity that would be a result of this rule. Using the Area Equivalent Method computer model, the agency determined that the use of up to 25% of the commuter slots for turbojet operations would result in a 0.2% increase in the size of the Day Night Average Sound Level 65 dB contour at O'Hare. Pursuant to FAA Order 1050.1D, if the result of the Area Equivalent Method computer model shows less than a 17% increase, the agency may conclude that there would be no significant impact on a noise sensitive area and that no further analysis is required.

Accordingly, the FAA finds that permitting the use of larger aircraft in 25% of the commuter slots at O'Hare is consistent with existing national environmental policies and objectives as set forth in section 101(a) of the National Environmental Policy Act of 1969 (NEPA) and that it will not significantly affect the quality of the human environment or otherwise include any condition requiring consultation pursuant to section 102(2)(c) of NEPA.

The Rule Adopted

In consideration of the above, the FAA is amending FAR part 93, subpart K and supart S, (1) to clarify that the definition of commuter aircraft under the High Density Rule includes turbojet aircraft having a maximum passenger seating capacity of fewer than 56 seats, and (2) to permit the temporary operation of jets (or other aircraft) with a maximum passenger seating capacity of 56 to and including 110 in certain commuter slots at O'Hare International Airport, subject to specific conditions. First, the maximum number of commuter slots that can be operated with aircraft with 56 to 110 passenger seats is limited to 25 percent of the total number of commuter slots held by each slot holder at O'Hare. Second, the number of commuter slots that can be used for operation of aircraft with 56 to 110 passenger seats is limited to a maximum number each half hour (beginning at 0645) and each two consecutive half hours. During most hours of the day, the limit is a total of six in each half hour (beginning at 0645) and a total of 10 in any two consecutive half hours. In peak traffic hours the operations are limited to two per half hour. Full utilization of the authority, with this limitation on half-hour and consecutive half-hour operations, permits a total of 108 new jet operations a day at O'Hare (with a like reduction in the number of turboprop operations).

The peak hours in which the limitation to two per half hour applies are:

1015 through 1244
1715 through 1944

The limitations per half hour and consecutive half hours on the number of 56- to 110-seat aircraft operations in commuter slots would be published in an appendix to part 93. A decision by ATC to amend these limits will be published in advance of the effective date of the change, in the **Federal Register**, as an amendment to the part 93 appendix. Allocation of the eligible slot times to the carriers holding commuter slots at O'Hare will be accomplished by special lottery.

Third, for each slot time obtained in the lottery, a carrier is required to notify ATC 60 days in advance of the planned operation of the commuter slot with a 56- to 110-seat aircraft. ATC has the authority to disapprove a request based on actual conditions at the time of the request, and also to grant a request with conditions such as operating only as an arrival or departure. ATC's approval, conditional approval, or disapproval will be issued more than 45 calendar days before the planned start date stated in the notice. ATC approval for a specific operation will be valid for 30 days after the planned start date, and will then expire if the operation has not commenced. A new request can be filed.

Fourth, the FAA is requiring that any carrier intending to operate a commuter slot with a 56- to 110-seat jet aircraft have sufficient gates available for those operations, to prevent ramp and taxiway congestion which could result from additional jet operations.

Finally, the FAA is limiting the effective period of the amendment to 2 years, in order to evaluate the impact on airport operations and on ATC resources and workload. The rule can be extended by the Administrator upon publication of a notice of extension in the **Federal Register**.

Regulatory Evaluation

Executive Order 12291, dated February 17, 1981, directs Federal agencies to promulgate new regulations or modify existing regulations only if potential benefits to society for each regulatory change outweigh potential costs. The order also requires the preparation of a Regulatory Impact Analysis of all "major" rules except those responding to emergency situations or other narrowly defined exigencies. A "major" rule is one that is likely to result in an annual effect on the economy of $100 million or more, a major increase in consumer costs, a significant adverse effect on competition, or is highly controversial.

The FAA has determined that this rule is not "major" as defined in the executive order; therefore, a full regulatory analysis, that includes the identification and evaluation of cost reducing alternatives to this rule, has not been prepared. Instead, the agency has prepared a more concise document termed a regulatory evaluation that analyzes only this rule without identifying alternatives.

Costs

This rule is voluntary and does not impose any additional costs on part 121 or part 135 operators. This rule allows part 121 and part 135 operators to use some of their commuter slots (up to 25 percent) at O'Hare Airport for operations involving airplanes having up to 110 passenger seats. A maximum of 108 operations per day using airplanes with up to 110 seats would be permitted using commuter slots. The number of commuter slots that could be used for these operations will also be limited to ten in any 60-minute period with not more than six during any 30-minute period, and to two per 30-minute period in certain peak hours.

As a result of the above limitations on the use of larger airplanes in commuter slots, the FAA believes that the rule will not significantly alter the operating environment at O'Hare Airport for scheduled parts 135 or 121 air carrier operators. It is not expected that ground operations and departure and arrival procedures will be significantly affected. However, the potential exists for some additional delays in ground operations at O'Hare and enroute operations in the Greak Lakes Region as a result of the additional jet operations permitted under the rule.

This regulation will have no effect on the safety of either air or ground operations. ATC retains the ability to deny additional large airplane operations at O'Hare Airport and to maintain normal separation between aircraft.

In this evaluation, the FAA assumes that service to small airports will not be terminated or reduced as a result of this proposal. The rule will allow air carrier

operators to substitute larger and faster turbojet airplanes for smaller and slower turboprop airplanes and, thereby, improve service to the small airports that they currently serve. As Pan Am Express noted in its comments, the FAA has no factual basis for assuming that service to some small communities will not be reduced, although American Airlines represented in its comments that such service would not be affected. Because the rule is voluntary, the FAA has no certain knowledge that the holders of commuter slots at O'Hare Airport will or will not move operations at O'Hare from some markets to others, or that commuter slots will be used for jet service to the communities named in American's petition. Accordingly, it is possible that costs will be experienced by smaller communities that lose existing commuter flights, because the slots for those flights are transferred to other markets that can support jet service. The possibility of this occurrence and the costs associated with it are speculative, however, and have not been considered in the evaluation.

Benefits

The rule reduces some of the current restrictions on the use of commuter slots at O'Hare Airport under the High Density Rule, and permits carriers holding commuter slots additional flexibility in the use of those slots. To the extent the rule is used to upgrade service from turboprops to turbojets in the same market, the rule will benefit passengers in that market. Passengers on long commuter flights will be able to fly in larger and faster turbojet airplanes which will save them some time. However, for most commuter flights, which are short, turbojets will not provide any significant time savings. On a long commuter flight, the FAA estimates that about 20 minutes could be saved by using turbojet airplanes instead of turboprop airplanes. The FAA estimates that approximately 50 passengers will be on each turbojet commuter flight. The estimated passenger time saved is, therefore, 16.7 passenger-hours per commuter flight. The FAA estimates the value of passenger time is $34 per hour. Allowing turbojet airplanes with up to 110 seats to be used on long commuter flights will save an average of $568 in passenger time for each long commuter flight.

Benefit Cost Comparison

The FAA finds that there are no significant costs to this regulation. However, there are measurable benefits. As a result, the FAA has determined that the regulation is cost-beneficial.

Regulatory Flexibility Determination

The Regulatory Flexibility Act (RFA) of 1980 requires Federal agencies to specifically review rules which may have a "significant economic impact on a substantial number of small entities." The FAA has adopted criteria and guidelines for rulemaking officials to apply when determining if a proposed or existing rule has any significant economic impact on a substantial number of small entities.

The FAA defines "small entity" as a small operator who owns, but does not necessarily operate, nine airplanes. A substantial number of small entities is one-third of the small entities provided 11 or more small entities are substantially impacted. The FAA defines a significant economic impact as $4,000 per year for unscheduled operators, $57,000 per year for scheduled operators, and $101,000 per year for scheduled operators whose fleets are entirely composed of aircraft with 60 or more passenger seats.

There are no small operators providing service to Chicago O'Hare Airport that have airplanes with 56- to 110-seats. Thus, the FAA determines that this rule will not have a significant economic impact on a substantial number of small entities.

Paperwork Reduction Act

This amendment provides for no changes to the required reporting of information by air carrier and commuter operators to the FAA. Under the requirements of the Federal Paperwork Reduction Act, the Office of Management and Budget previously has approved the information collection provision of subpart S. OMB Approval Number 2120–0524 has been assigned to subpart S.

Federalism Implications

The regulations adopted herein would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this amendment will not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Conclusion

For the reasons discussed under Regulatory Evaluation, the FAA has determined that this amendment: (1) Is not a "major rule" under Executive Order 12291; and (2) is a "significant rule" under Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). Further, I certify that under the criteria of the Regulatory Flexibility Act, this rule will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 14 CFR Part 93

Aviation safety, Air traffic control, Reporting and recordkeeping requirements.

Adoption of the Amendment

Accordingly, the Federal Aviation Administration amends part 93 of the Federal Aviation Regulations (14 CFR part 93) as follows:

PART 93—SPECIAL AIR TRAFFIC RULES AND AIRPORT TRAFFIC PATTERNS

1. The authority citation for part 93 continues to read as follows:

Authority: 49 U.S.C. 1302, 1303, 1348, 1354(a), 1421(a), and 1424, The Metropolitan Washington Airport Act of 1986, title VI of Pub. L. 99–500; 49 U.S.C. 106 (Revised Pub. L. 97–449, January 12, 1983).

2. In § 93.123, paragraph (c) is revised to read as follows:

§ 93.123 High density traffic airports.

* * * * *

(c) For purposes of this subpart—

(1) The number of operations allocated to "air carriers except commuters," as used in paragraph (a) of this section refers to the number of operations conducted by air carriers with turboprop and reciprocating engine aircraft having a certificated maximum passenger seating capacity of 75 or more or with turbojet powered aircraft having a certificated maximum passenger seating capacity of 56 or more, or, if used for cargo service in air transportation, with any aircraft having a maximum payload capacity of 18,000 pounds or more.

(2) The number of operations allocated to "scheduled commuters," as used in paragraph (a) of this section, refers to the number of operations conducted by air carriers with turboprop and reciprocating engine aircraft having a certificated maximum passenger seating capacity of less than 75 or by turbojet aircraft having a certificated maximum passenger seating capacity of less than 56, or, if used for cargo service in air transportation, with any aircraft having a maximum payload capacity of less than 18,000 pounds.

(3) Notwithstanding the provisions of paragraph (c)(2) of this Section, a limited number of operations allocated for

"scheduled commuters" under paragraph (a) of this section may be conducted with aircraft described in § 93.221(e) of this part pursuant to the requirements of § 93.221(e).

3. Section 93.221 is amended by adding a new paragraph (e) to read as follows:

§ 93.221 Transfer of slots.

* * * * *

(e) Notwithstanding § 93.123(c)(2) of this part, a commuter slot at O'Hare International Airport may be used with an aircraft described in § 93.123(c)(1) of this part on the following conditions:

(1) Air carrier aircraft that may be operated under this paragraph are limited to aircraft with a maximum certificated passenger seating capacity of 56 to 110 seats.

(2) No more than 25 percent of the total number of commuter slots held by a slot holder at O'Hare International Airport may be used with an aircraft described in paragraph (e)(1) of this section.

(3) The total number of operations by aircraft described in paragraph (e)(1) of this section that may be conducted in commuter slots in any half hour (beginning at 0645) or in any two consecutive half hours may not exceed the number indicated in appendix B to this part. The slot times at which such operations may be conducted by each holder of commuter slots at O'Hare Airport will be determined by a lottery conducted in accordance with the general procedures described in § 93.225 of this part to the extent they apply.

(4) An air carrier or commuter operator planning to operate an aircraft described in paragraph (e)(1) of this section in a commuter slot shall notify ATC at least 60 days in advance of the planned start date of such operation. The notice shall include the slot number, proposed time of operation, aircraft type, and planned start date. ATC will approve or disapprove the proposed operation no later than 45 days prior to the planned start date. If an operator does not initiate operation of a commuter slot under this section within 30 days of the planned start date first submitted to the FAA, the ATC approval for that operation will expire. That operator may file a new or revised notice for the same half-hour slot time.

(5) ATC will not approve a number of operations by aircraft described in paragraph (e)(1) of this section in commuter slots in any half hour (beginning at 0645) or in any two consecutive half hours greater than the number indicated in appendix B to this part. ATC may approve fewer than the number of such operations listed in appendix B to this part for any half hour or two consecutive half hours upon a determination that a greater number would have an adverse effect on airport delays.

(6) An operation may not be conducted under paragraph (e)(1) of this section unless a gate is available for that operation without planned waiting time.

(7) For the purposes of this paragraph (e), notice to ATC shall be submitted in writing to: Director, Air Traffic System Management, ATM–1, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591.

(8) The effectiveness of this paragraph (e) shall expire September 20, 1993 unless otherwise extended by the Administrator before the date of the termination. Notice of the Administrator's decision will be published in the **Federal Register**.

Appendix B is added to part 93 to read as follows:

Appendix B to Part 93—Limits on the Number of Air Carrier Aircraft that May Be Used in Commuter Slots at O'Hare International Airport

The number of operations by aircraft described in § 93.221(e)(1) of this section in commuter slots at O'Hare International Airport may not exceed the following number indicated for each half-hour slot period and each two consecutive half hours:

Hours	Per half hour	Per 2 consecutive half hours
1015 through 1244	2	4
1715 through 1944	2	4
All other hours between 0645 and 2115	6	10

Issued in Washington, DC, on August 14, 1991.

James B. Busey,

Administrator.

[FR Doc. 91–19736 Filed 8–14–91; 12:48 pm]

BILLING CODE 4910–13–M

federal register

Monday
August 19, 1991

Part VIII

Department of the Interior

Bureau of Indian Affairs

Rosebud Sioux Tribal Lands, South Dakota; Environmental Impact Statement; Availability; Notice

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Intent to Prepare an Environmental Impact Statement for a Proposed Regional Solid Waste Landfill Project on Lands Owned by the Rosebud Sioux Tribe in Mellette County

AGENCY: Bureau of Indian Affairs (BIA), Interior.

ACTION: Notice of intent to prepare an Environmental Impact Statement.

SUMMARY: The BIA is issuing this Notice to advise the public that the Bureau intends to prepare an Environmental Impact Statement (EIS) for a proposed regional solid waste landfill project on lands owned by the Rosebud Sioux Tribe in Mellette County located in southwestern South Dakota. The BIA is required to approve the proposed lease between the Rosebud Sioux Tribe and the applicant. Public meetings regarding the proposed lease action and preparation of the EIS will be held to obtain suggestions on issues to be included in the scope of the EIS.

DATES: Public scoping meetings to identify issues and alternatives to be evaluated in the EIS will be on Wednesday, September 4, 1991 at the Old High School Gymnasium, St. Francis, South Dakota, at 7 p.m. and on Thursday, September 5, 1991 at the Legion rooms 1 & 2, Howard Johnsons Convention Center, Rapid City, South Dakota, at 7 p.m. Comments should be directed to the BIA at the address below. Written comments should be received within 30 days from the date of this notice.

FOR FURTHER INFORMATION CONTACT: Mr. Nicholas Chevance, Area Environmental Coordinator, Bureau of Indian Affairs, Aberdeen Area Office, 115 Fourth Avenue Southeast, Aberdeen, South Dakota 57401, telephone (605) 226–7618 or FTS 782–7618.

SUPPLEMENTARY INFORMATION: The BIA, in cooperation with the Rosebud Sioux Tribe and RSW, Inc., will prepare an EIS on a proposed lease for a solid waste landfill site located on Rosebud Sioux Tribe lands in Mellette County in southwestern South Dakota. The lease will include approximately 5,700 acres of grazing lands to be used for the land disposal of several categories of nonhazardous waste Municipal Solid Waste (MSW), incinerator ash and shredded tires.

Plans call for materials to be delivered by truck or by rail. The proposed facility will include a main access road and several secondary roads, a six mile rail, spur waste unloading facilities, temporary storage areas, rail car washing areas, and the disposal areas (cells).

Two cells, approximately five acres each, are initially planned: One for MSW disposal and one dedicated to ash. A third may be added for the disposal of shredded tires. The cells will be sized for a life span of approximately one to two years for MSW and two to three years for ash. Operation of the facility calls for the wastes to be deposited in 10 foot increments with a 6 inch cover of porous earth. If determined feasible, the plans call for the capture of methane gases for potential power generation and/or a gas bottling facility.

The principal alternatives identified are to build the project as proposed, not to build the project, to have the tribe construct a small scale landfill for reservation use only, or to have the tribe utilize other regional landfills as described in the current plan for solid waste management for South Dakota. Significant issues to be covered during the scoping process include archeological, cultural and historic sites; socioeconomic conditions; visual impacts; land and resource use patterns; and transportation systems. Potential environmental impacts that may result from the proposal are: Impacts to water resources, effects on threatened and endangered species, and effects on cultural resources. It is estimated that the draft EIS will be available for public review by early 1992.

This notice is published pursuant to § 1501.7 of the Council of Environmental Quality Regulations (40 CFR parts 1500 through 1508) implementing the procedural requirements of the NEPA of 1969, as amended (42 U.S.C. 4371 et seq.), Department of the Interior Manual (516 DM 1–6) and is the exercise of authority delegate to the Assistant Secretary—Indian Affairs by 209 DM–8.

Dated: August 13, 1991.

David Matheson,

Assistant Secretary—Indian Affairs.

[FR Doc. 91–19740 Filed 8–16–91; 8:45 am]

BILLING CODE 4310–02–M

federal register

Monday
August 19, 1991

Part IX

Environmental Protection Agency

Twenty-Eighth Report of the Interagency Testing Committee; Notice

ENVIRONMENTAL PROTECTION AGENCY

[OPTS-41035; FRL 3937-4]

Twenty-Eighth Report of the Interagency Testing Committee to the Administrator; Receipt of Report and Request for Comments Regarding Priority List of Chemicals

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Interagency Testing Committee (ITC), established under section 4(e) of the Toxic Substances Control Act (TSCA), transmitted its Twenty-Eighth Report to the Administrator of EPA on May 31, 1991. As noted in this Report, which is included with this notice, the Committee revised the Priority Testing List by designating 6 chemicals and recommending 3 chemicals and 11 chemical groups. The six designated chemicals are: acetone, *n*-butanol, dimethyl terephthalate, di-(2-ethylhexyl) adipate, isobutyl alcohol, and thiophenol. There are no recommended with intent-to-designate chemicals. The three recommended chemicals are: allyl alcohol, 2,4-dichlorophenol, and *m*-dinitro-benzene. The 11 recommended chemical groups are: aldehyde hydrates, alkoxysilanes, alkynes, cyanoacrylates, hydrazines, isothiocyanates, methyl ethylene glycol ethers, nitroalcohols, oxiranes, propylene glycol ethers and esters, and phosphoniums.

The ITC has not removed any chemicals from the Priority List as a result of EPA actions.

EPA invites interested persons to submit written comments on the Report. EPA is not holding a Focus Meeting for these chemicals and will proceed immediately to rulemaking. EPA is taking this action because the designated chemicals have a statutory deadline and require a response by EPA within 1 year.

DATES: Written comments should be submitted by September 18, 1991.

ADDRESSES: Send written submissions to: TSCA Public Docket Office (TS-793), Office of Toxic Substances, Environmental Protection Agency, Rm. NE- G004, 401 M St., SW., Washington, DC 20460. All submissions should bear the document control number (OPTS-41035).

The public record supporting this action, including comments, is available for public inspection in Rm. NE-G004 at the address noted above from 8 a.m. to noon and 1 p.m. to 4 p.m., Monday through Friday, except legal holidays.

FOR FURTHER INFORMATION CONTACT: David Kling, Acting Director, Environmental Assistance Division (TS-799), Office of Toxic Substances, Environmental Protection Agency, 401 M St., SW., Rm. E-543B, Washington, DC 20460, (202) 554-1404, TDD (202) 554-0551.

SUPPLEMENTARY INFORMATION: EPA has received the TSCA Interagency Testing Committee's Report to the Administrator.

I. Background

TSCA (Pub. L. 94-469, 90 Stat. 2003 *et seq*; 15 U.S.C. 260l *et seq.*) authorizes the Administrator of EPA to promulgate regulations under section 4(a) requiring testing of chemicals and groups in order to develop data relevant to determining the risks that such chemicals and groups may present to health or the environment. Section 4(e) of TSCA established the Interagency Testing Committee to recommend chemicals and groups to the Administrator of EPA for priority testing consideration. Section 4(e) directs the ITC to revise the TSCA section 4(e) Priority Testing List at least every 6 months. The ITC's most recent revisions to this List are included in the Committee's Twenty-Eighth Report. The Report was received by the Administrator on May 31, 1991, and is included in this Notice. The Report adds 9 chemicals and 11 groups of chemicals to the TSCA section 4(e) Priority Testing List.

II. Written and Oral Comments and Public Meetings

EPA invites interested persons to submit detailed comments on the ITC's new recommendations. The Agency is interested in receiving information concerning additional or ongoing health and safety studies on the subject chemicals as well as information relating to the human and environmental exposure to these chemicals.

A notice will be published at a later date in the **Federal Register** adding most of the substances recommended in the ITC's Twenty-Seventh and Twenty-Eighth Report to the TSCA section 8(d) Health and Safety Data Reporting Rule (40 CFR part 716), which requires the reporting of unpublished health and safety studies on the listed chemicals. The delay in publishing this notice is necessary because of the requirement to complete the economic analysis on a large number of chemicals. That notice will also add most of the chemicals to the TSCA section 8(a) Preliminary Assessment Information Rule (40 CFR part 712). The section 8(a) rule requires the reporting of production volume, exposure, and release information on the listed chemicals.

III. Status of List

The ITC's Twenty-Eighth Report notes the addition of chemicals and chemical groups to the Priority Testing List. The current List contains 6 designated chemicals, 3 recommended chemicals, and 11 recommended chemical groups.

Authority: 15 U.S.C. 2603.

Dated: July 24, 1991.

Charles M. Auer,

Director, Existing Chemical Assessment Division, Office of Toxic Substance.

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Twenty-Eighth Report of the Interagency Testing Committee to the Administrator, Environmental Protection Agency

Summary. The U.S. Congress created the Interagency Testing Committee (ITC) under the Toxic Substances Control Act (TSCA) to recommend TSCA regulable chemicals and chemical groups to the Administrator of the U.S. Environmental Protection Agency (EPA) for Priority Testing consideration and to facilitate coordination of chemical testing sponsored or required by U.S. Government organizations represented on the Committee. Congress directed the Committee to: (1) Organize their recommendations as the Priority Testing List, (2) revise the Priority Testing List at least every 6 months and (3) transmit these revisions to the EPA Administrator for publication in the **Federal Register**

As a result of its deliberations during this reporting period (9/28/90 to 5/15/91), the Committee is revising the TSCA section 4(e) Priority Testing List by designating 6 chemicals and recommending 3 chemicals and 11 chemical groups. The Committee's computerized, substructure-based chemical selection processes were used to identify the chemicals in groups that are likely to satisfy multiple data needs of Member Agencies and others. During this reporting period, the Committee (1) considered available information on over 40 chemicals and over 30 chemical groups, (2) discussed information on Committee activities at the American Society for Testing and Material's First Symposium on Environmental Toxicology and Risk Assessment, (3) submitted comments to EPA's proposed multi-substance rules for neurotoxicity and developmental/reproductive toxicity, (4) met with the Synthetic Organic Chemical Manufactures Association and the Chemical Manufactures Association to discuss completed, ongoing and planned testing of chemical groups recommended in the 26th Report, (5) solicited voluntary use exposure and release information that is unlikely to be submitted in response to the TSCA Section 8(a) rule that is promulgated for any chemical or chemical group recommended for testing by the ITC, (6) solicited voluntary physical and chemical property information for any chemicals in chemical groups recommended for testing since the Committee's 24th Report, (7) published unambiguous tables (requested by Congress) of the 123 chemicals and 38 chemical groups on or removed from the Priority Testing List, (8) referred a chemical to the EPA, FDA or NTP for health effects testing and (9) deferred over 800 chemicals from testing consideration.

Chemicals or chemical groups (entries) on the Priority Testing List are designated, recommended with intent-to-designate or recommended by the Committee. Designations were created by the U.S. Congress when they drafted TSCA. Recommendations with intent-to-designate were established by the Committee in their 17th Report (50 FR 47603; November 19, 1985). Recommendations were established by the Committee in their 11th Report (47 FR 54626; December 3, 1982). Revisions to the Priority Testing List are presented, together with the types of testing recommended, in Table 1. The footnote letters following Table 1 acknowledge the Committee's efforts to comprehensively examine ongoing testing-related activities and available information previously submitted under TSCA.

TABLE 1.—REVISIONS TO THE SECTION 4(E) PRIORITY TESTING LIST

Group	CAS No.	Chemical	Action	Date	Recommended Tests
IRIS	67-64-1	Acetone[1,2]	Designated	5/91	Chemical fate: None. Health effects: Reproductive effects. Ecological effects: None.
IRIS	71-36-3	*n*-Butanol[2]	Designated	5/91	Chemical fate: None. Health effects: Reproductive effects. Ecological effects: None.
IRIS	78-83-1	Isobutanol[2]	Designated	5/91	Chemical fate: None. Health effects: Oral and inhalation pharmacokinetics, reproductive effects, developmental toxicity, and oncogenicity. Ecological effects: None.
IRIS	103-23-1	Di-(2-ethylhexyl)adipate[3]	Designated	5/91	Chemical fate: Physical and chemical properties, river die-away and sediment biodegradation. Health effects: Reproductive effects, developmental toxicity and neurotoxicity. Ecological effects: Aquatic invertebrate and fish chronic toxicity.
IRIS	108-98-5	Thiophenol[3]	Designated	5/91	Chemical fate: Aerobic biodegradation, photolysis screening, and volatilization. Health effects: Pharmacokinetics, reproductive effects, developmental toxicity, neurotoxicity, mutagenicity and oncogenicity. Ecological effects: Algal toxicity, aquatic invertebrate and fish acute and chronic toxicity.
IRIS	120-61-6	Dimethyl terephthalate	Designated	5/91	Chemical fate: River die-away biodegradation. Health effects: Reproductive effects, developmental toxicity and neurotoxicity. Ecological effects: Algal toxicity, aquatic invertebrate and fish acute and chronic toxicity.
IHIS	99-65-0	*m*-Dinitro-benzene[3]	Recommended	5/91	Chemical fate: None. Health effects: Subchronic toxicity, reproductive effects, developmental toxicity and neurotoxicity.

TABLE 1.—REVISIONS TO THE SECTION 4(E) PRIORITY TESTING LIST—Continued

Group	CAS No.	Chemical	Action	Date	Recommended Tests
					Ecological effects: None.
IRIS	107-18-6	Allyl alcohol[2]	Recommended	5/91	Chemical fate: None. Health effects: Subchronic toxicity, pharmacokinetics, reproductive effects, developmental toxicity and neurotoxicity. Ecological effects: Algal toxicity, acute and chronic aquatic invertebrate and fish toxicity.
IRIS	120-83-2	2,4-Dichlorophenol[1,2]	Recommended	5/91	Chemical fate: None. Health effects: Neurotoxicity and immunotoxicity. Ecological effects: None.
Alkynes			Recommended	5/91	Chemical fate: Physical and chemical properties and biodegradation rate screening. Health effects: None. Ecological effects: None.
Nitralcohols			Recommended	5/91	Chemical fate: Physical and chemical properties and biodegradation rate screening. Health effects: None. Ecological effects: None.
Phosphoniums			Recommended	5/91	Chemical fate: Physical and chemical properties and biodegradation rate screening. Health effects: None. Ecological effects: None.
Hydrazines			Recommended	5/91	Chemical fate: None. Health effects: None. Ecological effects: Algal toxicity, aquatic invertebrate and fish acute and chronic toxicity.
Oxiranes			Recommended	5/91	Chemical fate: None. Health effects: None. Ecological effects: Algal toxicity, aquatic invertebrate acute and chronic toxicity and fish chronic toxicity.
Alkoxysilanes			Recommended	5/91	Chemical fate: None. Health effects: None. Ecological effects: Algal toxicity, aquatic invertebrate and fish acute and chronic toxicity.
Aldehyde hydrates			Recommended	5/91	Chemical fate: None. Health effects: None. Ecological effects: Algal toxicity, aquatic invertebrate and fish acute and chronic toxicity.
Propylene glycol ethers and esters			Recommended	5/91	Chemical fate: None. Health effects: Developmental toxicity and reproductive effects. Ecological effects: None.
Methyl ethylene glycol ethers			Recommended	5/91	Chemical fate: None. Health effects: Developmental toxicity and reproductive effects. Ecological effects: None.
Isothiocyanates			Recommended	5/91	Chemical fate: Persistence. Health effects: None. Ecological effects: None.
Cyanoacrylates			Recommended	5/91	Chemical fate: Physical and chemical properties. Health effects: None. Ecological effects: None.

[1] Superfund Amendments and Reauthorization Act (SARA) section 110.
[2] Emergency Planning and Community Right-to-Know Act (EPCRA) section 313.
[3] Clean Air Act Amendments, section 301.
[4] Toxic Substances Control Act (TSCA) section 8(a) Preliminary Assessment Information Rule (PAIR).
[5] TSCA section 8(d) Health and Safety Data Reporting Rule.

Listed below are the individual chemicals for the chemical groups in Table 1. Chemical nos. 1 through 19 are alkynes, chemical nos. 20 through 23 are nitroalcohols, chemical nos. 24 through 28 are phosphoniums, chemical nos. 29 through 63 are hydrazines, chemical nos. 64 through 111 are oxiranes, chemical nos. 112 through 148 are alkoxysilanes, chemical nos. 149 through 186 are propylene glycol ethers and esters, chemical nos. 187 through 196 are methyl ethylene glycol ethers, chemical nos. 197 and 198 are isothiocyanates, chemical nos. 199 through 209 are cyanoacrylates, and chemicals nos. 210 and 211 are aldehyde hydrates.

No.	Chemical Name	CAS No.	Notes
1.	1-Propyne	74-99-7	
2.	1-Pentyn-3-ol, 3-methyl-	77-75-8	
3.	4-Octyne-3,6-diol, 3,6-dimethyl-	78-66-0	
4.	1-Butyne	107-00-6	
5.	2-Propyn-1-ol	107-19-7	
6.	1-Hexyn-3-ol, 3,5-dimethyl-	107-54-0	
7.	2-Butyne-1,4-diol	110-65-6	
8.	3-Butyn-2-ol, 2-methyl-	115-19-5	
9.	5-Decyne-4,7-diol, 2,4,7,9-tetramethyl-	126-86-3	
10.	3-Hexyne-2,5-diol, 2,5-dimethyl-	142-30-3	
11.	1-Buten-3-yne	689-97-4	
12.	Peroxide, (1,1,4,4-tetramethyl-2-butyne- 1,4-diyl)bis (1,1-dimethylethyl)	1068-27-5	
13.	Ethanol, 2,2'-[2-butyne-1,4- diylbis(oxy)]bis-	1606-85-5	
14.	3-Hexyne-2,5-diol	3031-66-1	
15.	Ethanol, 2-(2-propynyloxy)-	3973-18-0	
16.	1-Octyn-3-ol, 4-ethyl-	5877-42-9	
17.	7-Tetradecyne-6,9-diol, 5,10-diethyl-	25430-52-8	
18.	1-Propanesulfonic acid, 3,3'-[2-butyne- 1,4-diylbis(oxy)]bis 2-hydroxy-	40456-31-3	
19.	2-Propyne-1-sulfonic acid, sodium salt	55947-46-1	
20.	1-Propanol, 2-methyl-2-nitro-	76-39-1	
21.	1,3-Propanediol, 2-methyl-2-nitro-	77-49-6	
22.	1,3-Propanediol, 2-hydroxymethyl-2-nitro-	126-11-4	
23.	1,3-Propanediol, 2-ethyl-2-nitro-	597-09-1	
24.	Phosphonium, tetrakis(hydroxymethyl)-, chloride	124-64-1	
25.	Phosphonium, triphenyl(phenylmethyl)-,chloride	1100-88-5	
26.	Phosphonium, ethyltriphenyl-, iodide	4736-60-1	
27.	Phosphonium, ethyltriphenyl-, acetate	35835-94-0	
28.	Phosphonium, tetrakis(hydroxymethyl)-,sulfate(2:1) (salt)	55566-30-8	
29.	Hydrazine, 1,1-dimethyl-	57-14-7	b,g
30.	Hydrazine, phenyl monohydrochloride	59-88-1	
31.	Hydrazine, methyl-	60-34-4	b,g
32.	Benzenesulfonic acid, hydrazide	80-17-1	
33.	Benzenesulfonic acid, 4,4'-oxybis-,dihydrazide	80-51-3	
34.	Tetrazole-5-thione, 1,2-dihydro-1-phenyl-5*H*-	86-93-1	
35.	3-Pyrazolidinone, 1-phenyl-	92-43-3	
36.	Hydrazine, phenyl-	100-63-0	
37.	1-tetrazene-1-carboximidic acid, 4-(Aminomethyl)-, 2-nitrosohydrazide	109-27-3	
38.	1,2-Hydrazinedicarboxamide	110-21-4	
39.	Hydrazine, 1,2-diphenyl-	122-66-7	a,b,d,g
40.	1,2-Hydrazinedicarbothioamide	142-46-1	
41.	Hydrazine	302-01-2	a,b,g
42.	Carbonic dihydrazide	497-18-7	
43.	Hydrazinecarboxamide, monohydrochloride	563-41-7	e
44.	Hydrazinecarboximidamide, monohydrochloride	1937-19-5	
45.	Carbonothioic dihydrazide	2231-57-4	
46.	Carbonic acid, compd. with hydrazinecarboximidamide (1:1)	2582-30-1	
47.	1,3-Benzenedicarboxylic acid, dihydrazide	2760-98-7	
48.	Hydrazine, (2,4,6-trichlorophenyl)-	5329-12-4	
49.	Hydrazine dihydrochloride	5341-61-7	
50.	Hydrazinecarboxylic acid, methyl ester	6294-89-9	
51.	Hydrazinecarbothioamide, *N*-methyl-	6610-29-3	
52.	Hydrazine, monoacetate	7335-65-1	
53.	Hydrazine, (1,1-dimethylethyl)-, monohydrochloride	7400-27-3	
54.	Hydrazine monohydrate	7803-57-8	
55.	Hydrazine sulfate (1:1)	10034-93-2	b
56.	Benzenesulfonic acid, 4-methyl-, 2- (aminocarbonyl)hydrazide	10396-10-8	
57.	Hydrazine sulfate (2:1)	13464-80-7	
58.	Hydrazinecarbodithioic acid, compd. with hydrazine (1:1)	20469-71-0	
59.	Benzenepropanoic acid, 3,5-bis(1,1- dimethylethyl)-4-hydroxy-, hydrazide	32687-77-7	
60.	Benzenepropanoic acid, 3,5-bis(1,1- dimethylethyl)-4-hydroxy-, 2-3-3,5- bis(1,1-dimethylethyl)-4-hydroxyphenyl- 1-oxo	32687-78-8	
61.	1,2,4-Triazin-5(2*H*)-one, 4-amino-6-(1,1- dimethylethyl)3,4-dihydro-3-thioxo-	33509-43-2	
62.	Hydrazine, (2-chloro-4,6- dimethylphenyl)-, hydrochloride	63134-30-5	
63.	1,2-Hydrazinedisulfonic acid, 1-(4-nitrophenyl)-, dipotassium salt	63467-74-3	
64.	Oxirane	75-21-8	a,b,c,d
65.	Oxirane, methyl-	75-56-9	b,c,d
66.	2,4-Methano-2*H*-indeno[1,2-b:5,6-b']bisoxirene, octahydro-	81-21-0	c
67.	Oxirane, phenyl-	96-09-3	b,c
68.	Oxirane, 2,2'-[1,3-phenylenebis(oxymethylene)]bis-	101-90-6	c,d
69.	7-Oxabicyclo 4.1.0 heptane, 3-ethenyl-	106-86-5	
70.	7-Oxabicyclo 4.1.0 heptane, 3-oxiranyl-	106-87-6	c
71.	Oxirane, ethyl-	106-88-7	b,c,d
72.	Oxirane, (chloromethyl)-	106-89-8	b,c,d
73.	2-Propenoic acid, 2-methyl-,oxiranylmethyl ester	106-91-2	c,d
74.	Oxirane, [(2-propenyloxy)methyl] -	106-92-3	c,d
75.	Oxirane, (phenoxymethyl)-	122-60-1	c,d
76.	Spiro[6,10-(epoxymethano)-10*H*-cyclopenta[a]phenanthrene	163-77-9	
77.	7-Oxabicyclo[4.1.0]heptane	286-20-4	c
78.	Oxirane, trifluoro(trifluoromethyl)-	428-59-1	d,f
79.	Oxiranemethanol	556-52-5	c,d
80.	Oxirane, 2,2'-[(1-methylethylidene)bis(4,1-phenyleneoxy- methylene)]bis-	1675-54-3	d
81.	3-Oxatricyclo[4.1.1.02,4]octane, 2,7,7- trimethyl-	1686-14-2	
82.	Oxirane, [(2-methylphenoxy)methyl]-	2210-79-9	d

No.	Chemical Name	CAS No.	Notes
83.	Oxirane, 2,2'-[oxybis(methylene)]bis-	2238-07-5	c,d
84.	7-Oxabicyclo[4.1.0]heptane-3-carboxylic acid, 7-oxabicyclo[4.1.0] hept-3- yimethyl ester	2386-87-0	
85.	Oxirane, 2,2'-[1,4- butanediylbis(oxymethylene)]bis-	2425-79-8	c,d
86.	Oxirane, (butoxymethyl)-	2426-08-6	c,d
87.	1,3,5-Triazine-2,4,6(1*H*,3*H*,5*H*)-trione, 1,3,5-tris(oxiranylmethyl)-	2451-62-9	
88.	Oxirane, [(2-ethylhexyl)oxy methyl]-	2461-15-6	d
89.	Oxirane, [(dodecyloxy)methyl]-	2461-18-9	c,d
90.	Silane, trimethoxy[3- (oxiranylmethoxy)propyl]-	2530-83-8	c,d
91.	Oxirane, [4-(1,1-dimethylethyl)phenoxy methyl]-	3101-60-8	c,d
92.	Hexanedioic acid, bis(7-oxabicyclo[4.1.0]hept-3-ylmethyl) ester	3130-19-6	
93.	Spiro 1,3-dioxane-5,3'-[7-oxabicyclo[4.1.0]heptane], 2-(7-oxabicyclo[4.1.0]hept-3-yl)-	3388-03-2	
94.	Silane, trimethoxy[2-(7- oxabicyclo[4.1.0]hept-3-yl)ethyl]-	3388-04-3	
95.	Oxiranemethanamine, *N*-[4- (oxiranylmethoxy)phenyl]-*N*-(oxira-nylmethyl)-	5026-74-4	d
96.	1,2-Cyclohexanedicarboxylic acid, bis(oxiranylmethyl) ester	5493-45-8	d
97.	Oxirane, 2,2',2''-[1-propanyl-3-ylidenetris(4,1-phenyleneoxy-methylene)]tris-	6130-72-9	
98.	Oxirane, tetradecyl-	7320-37-8	c,d
99.	Oxirane, 2,2',2'',2'''-[1,2-ethanediylidenetetrakis(4,1- phenyleneoxymethylene)]tetrakis-	7328-97-4	d
100.	Oxirane, [(1,1-dimethylethoxy)methyl]-	7665-72-7	d
101.	Cyclohexane, 1,4-bis[(2,3- epoxypropoxy)methyl]-	14228-73-0	d
102.	2,4-Imidazolidinedione, 5-ethyl-5-methyl-1,3-bis(oxiranylmethyl)-	15336-82-0	
103.	Oxirane, 2,2'-[(2,2-dimethyl-1,3- propanediyl)bis(oxymethylene)]bis-	17557-23-2	d
104.	Oxirane, [(methylphenoxy)methyl]-	26447-14-3	c,d
105.	Neodecanoic acid, oxiranylmethyl ester	26761-45-5	c,d
106.	Oxirane, 2,2'-[methylenebis(2,1-phenyleneoxymethylene)]bis-	54208-63-8	d
107.	Oxiraneoctanoic acid, 3-octyl-, ammonium salt	61792-39-0	
108.	7-Oxabicyclo[4.1.0]heptane-3-carboxylic acid, 2-ethylhexyl ester	62256-00-2	
109.	Oxirane, 2,2'-[[[2-(oxiranylmethoxy)phenyl]methylene] bis(4,1-phenyleneoxymethylene)]bis-	67786-03-2	
110.	Oxiranoctanoic acid, 3-octyl-, 1-methyl- 1,2-ethanediyl ester	67860-05-3	
111.	Oxirane, 2,2-dimethyl-3-(3-methyl-2,4- pentadienyl)-	69103-20-4	
112.	Silane, ethenyltriethoxy-	78-08-0	
113.	Silicic acid (*H4SiO4*), tetraethyl ester	78-10-4	
114.	Silicic acid (*H4SiO4*), tetrakis(2- ethylbutyl) ester	78-13-7	
115.	Silicic acid (*H4SiO4*), tetramethyl ester	681-84-5	
116.	Silicic acid (*H4SiO4*), tetrapropyl ester	682-01-9	
117.	Silane, triethoxyphenyl-	780-69-8	
118.	1-Propanamine, 3-(triethoxysilyl)-	919-30-2	
119.	Propanenitrile, 3-(triethoxysilyl)-	919-31-3	
120.	2,5,7,10-Tetraoxa-6-silaundecane, 6- ethenyl-6-(2-methoxyethoxy)-	1067-53-4	
121.	2-Oxa-7,10-diaza-3-silatridecan-13-oic acid, 3,3-dimethoxy-, methyl ester	1067-66-9	
122.	Silane, trimethoxymethyl-	1185-55-3	
123.	1,2-Ethanediamine, *N*-[3- (trimethoxysilyl)propyl]-	1760-24-3	
124.	Silane, triethoxymethyl-	2031-67-6	
125.	2-Propenoic acid, 2-methyl-, 3- (trimethoxysilyl)propyl ester	2530-85-0	c
126.	Silane, (3-chloropropyl)trimethoxy-	2530-87-2	
127.	Silane, ethenyltrimethoxy-	2768-02-7	
128.	Silane, triethoxyoctyl-	2943-75-1	
129.	Silane, trimethoxyphenyl-	2996-92-1	
130.	1-Propanamine, 3-(diethoxymethylsilyl)-	3179-76-8	
131.	Silanetriol, ethenyl-, triacetate	4130-08-9	
132.	Silanetriol, methyl-, triacetate	4253-34-3	
133.	1-Propanethiol, 3-(trimethoxysilyl)-	4420-74-0	
134.	Silicic acid (*H4SiO4*), tetrakis(1- methylpropyl) ester	5089-76-9	
135.	Silane, dimethoxydiphenyl-	6843-66-9	
136.	Acetic acid, dianhydride with silicic acid (*H4SiO4*) bis(1,1-dimethylethyl) ester	13170-23-5	
137.	1-Propanamine, 3-(trimethoxysilyl)-	13822-56-5	
138.	Silanetriol, ethyl-, triacetate	17689-77-9	
139.	Carbamic acid, [3- (triethoxysilyl)propyl]-, ethyl ester	17945-05-0	
140.	Silane, trimethoxy(2-methylpropyl)-	18395-30-7	
141.	Silicic acid (*H4SiO4*), tetra-2-methyl-1- pentyl ester	18765-32-7	
142.	Urea, [3-(triethoxysilyl)propyl]-	23779-32-0	
143.	1,3,5-Triazine-2,4,6(1*H*,3*H*,5H)-trione, 1,3,5-tris[3-(trimethoxysilyl)propyl]-	26115-70-8	
144.	Silane, dimethylbis(octadecyloxy)-	29043-70-7	
145.	1,2-Ethanediamine, *N*-[(4-ethenylphenyl)methyl]-N'-[3-(trime thoxysilyl)propyl]-, monohydrochloride	33401-49-9	
146.	1,2-Ethanediamine, *N*-(2-aminoethyl)-N'- [3-(trimethoxysilyl)propyl]-	35141-30-1	
147.	3,16-Dioxa-8,9,10,11-tetrathia-4,15- disilaoctadecane, 4,4,15,15-tetraethoxy-	40372-72-3	
148.	1,2-Ethanediamine,*N*-(phenylmethyl)-N'-[3-(trimethoxysilyl)propyl]-, monohydrochloride	42965-91-3	
149.	1,2-Propanediol	57-55-6	
150.	9-Octadecenoic acid (*Z*)-, 1-methyl-1,2- ethanediyl ester	105-62-4	
151.	2-Propanol, 1-methoxy-	107-98-2	c,d
152.	2-Propanol, 1-methoxy-, acetate	108-65-6	
153.	2-Propanol, 1,1'-oxybis-	110-98-5	
154.	2-Propanol, 1,1'-[(1- methylethylidene)bis(4,1-phenylene- oxy)]bis-	116-37-0	
155.	2-Propanol, 1-(2-butoxyethoxy)-	124-16-3	c,d
156.	2-Propanol, 1-phenoxy-	770-35-4	
157.	2-Propenoic acid, 2-methyl-, 2- hydroxypropyl ester	923-26-2	
158.	Octadecanoic acid, monoester with 1,2- propanediol	1323-39-3	
159.	9-Octadecenoic acid (*Z*)-, monoester with 1,2-propanediol	1330-80-9	
160.	2-Propanol, 1-propoxy-	1569-01-3	
161.	1,2,4-Butanetriol	3068-00-6	
162.	1-Propanol, 2-phenoxy-	4169-04-4	
163.	2-Propanol, 1-butoxy-	5131-66-8	c,d
164.	1,2-Propanediol, dibenzoate	19224-26-1	

No.	Chemical Name	CAS No.	Notes
165.	2-Propanol, 1-(2-methoxy-1- methylethoxy)-	20324-32-7	
166.	2-Propanol, 1-(2-methylpropoxy)-	23436-19-3	
167.	Propanol, [(1-methyl-1,2- ethanediyl)bis(oxy)]bis-	24800-44-0	
168.	Propanol, oxybis-	25265-71-8	
169.	Propanol, [2-(2- methoxymethylethoxy)methylethoxy]-	25498-49-1	c,d
170.	2-Propenoic acid, monoester with 1,2- propanediol	25584-83-2	c
171.	Propanol, oxybis-, dibenzoate	27138-31-4	
172.	Dodecanoic acid, monoester with 1,2- propanediol	27194-74-7	
173.	2-Propenoic acid, 2-methyl-, monoester with 1,2-propanediol	27813-02-1	
174.	1-Propanol, methoxy-	28677-93-2	
175.	1,2-Propanediol, mono isopropyl ether	29387-84-6	
176.	2-Propanol, 1-(2-butoxy-1-methylethoxy)-	29911-28-2	
177.	Nonanoic acid, 1-methyl-1,2-ethanediyl ester	41395-83-9	
178.	2-Propanoic acid, (1-methyl-1,2- ethanediyl)bis[oxy(methyl-2,1- ethanediyl)]ester	42978-66-5	
179.	2-Propanol, 1-ethoxy-	52125-53-8	
180.	Butanedioic acid, (tetrapropenyl)-, monoester with 1,2-propanediol	52305-09-6	
181.	2-Propanol, 1-(1-methoxyethoxy), acetate	54839-25-7	
182.	2-Propanol, 1-(1,1-dimethylethoxy)-	57018-52-7	
183.	Isooctadecanoic acid, monoester with 1,2-propanediol	68171-38-0	
184.	1-Propanol, 2-(1-methylethoxy)-, acetate	73238-55-8	
185.	Propanol, 1 (or 2)-2- methoxymethylethoxy, acetate	88917-22-0	
186.	Propanol, 1 (or 2) ethoxy acetate	98516-30-4	
187.	2,5,8,11,14-Pentaoxapentadecane	143-24-8	
188.	Ethanol, 2-methoxy-, carbamate	1616-88-2	
189.	2-Propenoic acid, 2-methoxyethyl ester	3121-61-7	
190.	Carbamic acid, bis(hydroxymethyl)-, 2- methoxyethyl ester	10143-22-3	
191.	2,5,8,11-Tetraoxatridecan-13-ol	23783-42-8	
192.	Propanenitrile, 3-(2-methoxyethoxy)-	35633-50-2	
193.	1-Propanamine, 3-(2-methoxyethoxy)-	54303-31-0	
194.	1*H*-Naphth[2,3-f]isoindole-1,3,5,10(2*H*)-tetrone, 4,11-diamino-2-[3-(2-methoxyethoxy)propyl]-	65059-45-2	
195.	Propanamide, *N*-[2-[(2-chloro-4,6-dinitrophenyl)azo]-5-(ethylamino)-4-(2-methoxyethoxy)phenyl]-	67846-62-2	
196.	Acetamide, *N*-[2-[(2-chloro-4,6-dinitrophenyl)azo]-5-(ethylamino)-4-(2-methoxyethoxy)phenyl]-	68957-67-5	
197.	1-Propene, 3-isothiocyanato-	57-06-7	
198.	Benzene, isothiocyanato-	103-72-0	
199.	2-Propenoic acid, 2-cyano-, methyl ester	137-05-3	
200.	2-Propenoic acid, 2-cyano-, isobutyl ester	1069-55-2	
201.	2-Propenoic acid, 2-cyano-3,3-diphenyl-, 2-ethylhexyl ester	6197-30-4	
202.	2-Propenoic acid, 2-cyano-, butyl ester	6606-65-1	
203.	2-Propenoic acid, 2-cyano-, ethyl ester	7085-85-0	
204.	2-Propenoic acid, 2-cyano-, 2-propenyl ester	7324-02-9	
205.	2-Propenoic acid, 2-cyano-, 1- methylethyl ester	10586-17-1	
206.	2-Propenoic acid, 2-cyano-, ethyoxy ethyl ester	21982-43-4	
207.	2-Propenoic acid, 2-cyano-, 2,2,2- trifluomethyl ester	23023-91-8	
208.	2-Propenoic acid, 2-cyano-, 2- methyoxyethyl ester	27816-23-5	
209.	Ethanaminium, 2-[[2-cyano-3-[4-(diethylamino)phenyl]-1-oxo-2- propenyl]oxy]-*N,N,N*-trimethyl-, chloride	64992-16-1	
210.	1,1-Ethanediol, 2,2,2-trichloro-	302-17-0	
211.	Glyoxal trimeric dihydrate	4405-13-4	

Notes:

a Superfund Amendments and Reauthorization Act (SARA) section 110.

b. Emergency Planning and Community Right-to-Know Act (EPCRA) section 313.

c. Toxic Substances Control Act (TSCA) section 8(a) Preliminary Assessment Information Rule (PAIR).

d. TSCA section 8(d) Health and Safety Data Reporting Rule.

e. TSCA section 8(a) Comprehensive Assessment Information Rule.

f. TSCA section 8(a) chemical specific rule.

g. Clean Air Act Amendments, section 301.

TSCA Interagency Testing Committee

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None

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Raimundo Prat

Environmental Protection Agency
Letitia Tahan, member
Vincent Nabholtz, alternate

National Cancer Institute
Susan Sieber, member
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Notes: Appointed on February 7, 1991.

The Committee acknowledges and is grateful for the assistance and support given by the staff of Syracuse Research Corp. (technical support contractor) and personnel of the EPA Office of Toxic Substances.

Chapter 1--Introduction

1.1 *Background.* The U.S. Congress created the Interagency Testing Committee (ITC) in 1976 to screen, select and recommend chemicals and chemical groups for priority health effects, chemical fate, and ecological effects testing consideration. Congress provided the ITC with statutory authority for screening, selecting and recommending chemicals and a list of factors that must be considered during chemical screening. Congress directed the Committee (which consists of 8 statutory and 10 liaison Members from U.S. Government organizations) to consider these statutory factors, including quantities manufactured or released, numbers of individuals exposed, duration of exposure, extent of human exposure, structural relationships to known toxic substances, toxicity data, reliability of test data to predict hazard and availability of testing facilities when screening chemicals or chemical groups for consideration. Congress also directed the Committee to give priority attention to those chemicals or chemical groups known to cause or suspected of causing cancer, gene mutations or birth defects. The Committee selects and recommends chemicals or chemical groups that may: (1) Present an unreasonable risk of injury to health or the environment, (2) reasonably be anticipated to enter the environment in substantial quantities or (3) involve significant or substantial human exposure.

Congress also created the ITC to facilitate coordination of chemical testing sponsored or required by U.S. Government organizations and to enhance information exchange to promote cost-effective use of U.S. Government chemical testing resources by recommending testing of chemicals or chemical groups that are likely to satisfy multiple data needs of Member Agencies and others. The Committee's statutory responsibilities are described in section 4(e) of the Toxic Substances Control Act (TSCA; Pub. L. 94-469, 90 Stat. 2003 et seq., 15 U.S.C. 2601 et seq.).

The Committee prepares a list (the Priority Testing List) of chemicals or chemical groups recommended for testing (by the chemical's manufacturers), transmits the Priority Testing List to the Administrator of the U.S. Environmental Protection Agency (EPA) and determines the order in which the EPA Administrator shall implement the testing recommendations under TSCA section 4(a) by designating those chemicals, from among its recommendations, to which the Administrator should respond within 12 months. Congress directed the Committee to revise the Priority Testing List at least every 6 months and required the EPA Administrator to publish the Committee's Reports in the **Federal Register.**

1.2 *Committee's previous reports.* Twenty-seven previous Reports to the EPA Administrator have been issued by the Committee and published in the **Federal Register.** In these 27 Reports, the Committee has recommended testing for 114 chemicals and 27 chemical groups. Chemical groups consist of one or more chemicals, isomers, congeners, mixtures, and so on that have a common substructure, use, testing information deficiency, exposure scenario, etc., and for which there is one common testing recommendation, e.g., aldehydes recommended for ecological effects testing in the 27th Report. Chemicals can be members of chemical groups, but each is counted as a single chemical if their testing recommendations are different, e.g., the 5 chloroalkyl phosphates recommended in the 23rd Report.

1.3 *Committee's activities during this reporting period.* Between September 28, 1990 and May 15, 1991 the Committee processed chemicals that were likely to satisfy multiple data needs of Member Agencies and others, evaluated chemicals by using the Committee's computerized, substructure-based, chemical selection processes and examined lists of ongoing activities related to reducing testing information deficiencies for commercial chemicals.

1.3.a *Chemical and chemical group selections.* The Committee designated 6 chemicals and recommended 3 chemicals and 11 chemical groups for testing (Table 1). Six IRIS chemicals were designated, because there were sufficient concerns and uncertainties (related to substantial production volumes and potential exposures and releases) to request that the EPA Administrator implement the testing recommendations within 12 months of the date of the 28th Report. Three IRIS chemicals were recommended, because the Committee wants to review the TSCA section 8(a) and 8(d) information and any use exposure and release information as well as any physical chemical property information that is voluntarily submitted, before deciding whether to designate these chemicals for testing. Data submitted or developed in response to designations and recommendations of IRIS chemicals are likely to satisfy some of multiple data needs of numerous U.S. Government organizations represented on the Committee. Three groups (alkynes, nitroalcohols and phosphoniums) were recommended for minimum physical and chemical property testing and biodegradation rate screening tests because of concerns and uncertainties related to production and use, potential exposures and releases from production, processing and use, and the potential for persistence in the environment. Data submitted or developed in response to recommendations of chemical groups for minimum physical chemical property testing or biodegradation rate screening tests are likely to satisfy some of multiple data needs of the EPA, the Department of Transportation (DOT), the Department of Interior (DOI) and State and local governments involved with assessing the impact of chemical releases to the environment. Three groups (hydrazines, oxiranes and alkoxysilanes) were recommended for ecological effects tests because of concerns and uncertainties related to production and use, potential exposures and releases from production, processing and use, and for potential to cause adverse ecological effects. Aldehyde hydrates were recommended for ecological effects testing to complete the Committee's recommendation process for aldehydes and their hydrates. Data submitted or developed in response to recommendations of minimum ecological effects testing are likely to satisfy some of multiple data needs of the EPA, DOT, DOI and State and local governments involved with assessing the impact of chemical releases to the environment. Propylene glycol ethers and esters and methyl ethylene glycol ethers were recommended because Congress directed the Committee to give priority attention to chemical groups suspected of causing birth defects. Data submitted or developed in response to these recommendations are likely to satisfy some of multiple data needs of the Consumer Product Safety Commission (CPSC), the National Institute for Occupational Safety and Health (NIOSH), the Occupational Safety and Health Administration (OSHA) and others. Isothiocyanates were recommended for persistence testing to complete the Committee's recommendation process for

isocyanates and isothiocyanates. Cyanoacrylates were recommended for physical and chemical property testing because they are chemicals with commercially important bonding applications and there are insufficient publicly-available data to reasonably determine or predict physical and chemical properties. Data submitted or developed in response to these recommendations are likely to satisfy some of multiple data needs of EPA, DOT, the National Cancer Institute, the National Toxicology Program and others. These recommendations are consistent with the Committee's comprehensive approach of using their computerized processes to: (1) identify chemicals in substructure-based groups in need of screening tests, (2) review recently requested production and exposure data and non-public health and safety studies, (3) meet with interested groups to identify commercially-important chemicals that need to be tested (4) withdraw chemicals or tests to avoid unnecessary or duplicative testing, (5) characterize testing information deficiencies identified by Member Agencies, etc. and (6) integrate available information into a consolidated testing program likely to serve multiple users.

There are numerous advantages associated with nominating chemicals to the Committee. These were described in detail in chapter 1.3.a of the 27th Report (56FR9534, March 6, 1991). Further information about nominating chemicals or chemical groups to the Committee can be obtained by calling the Committee's Executive Director at area code 202/ 382–3820 or the Committee's Executive Assistant at area code 202/ 382–3825.

1.3.b *Comprehensive information processing.* During this reporting period, several For Your Information (FYI), TSCA section 8(d) and 8(e) documents were reviewed. These documents are stored on microfiche in the TSCA Public Docket Office, Office of Toxic Substances, Environmental Protection Agency, Room G–004 NE Mall, 401 M Street, S.W., Washington, D.C. 20460. These microfiched documents are also available from the National Technical Information Service, 5285 Port Royal Road, Springfield, Virginia 22161 (1–800–336–4700), and from Chemical Information Systems, Inc., 7215 York Road, Baltimore, Maryland 21212 (1–800–CIS–USER). The Committee referenced several of these documents in Chapter 2 of this report and readers are referred to the above addresses to obtain further information. Interested parties can also obtain, from the EPA address, copies of publicly-available reports, letters and published references supporting recommendations of chemicals in this report.

The Committee continues to comprehensively search available domestic and international lists of ongoing activities related to reducing testing information deficiencies on chemicals under review. Efforts to conduct these searches identified chemicals listed in other statutes, e.g., chemicals listed in Title III of the 1990 amendments of the Clean Air Act. The Committee has recommended over 60 chemicals and chemical groups listed in this statute. These recommendations have resulted in the submission of: 1) substantive TSCA section 8(a) production, exposure and release information, 2) hundreds of non-public TSCA section 8(d) studies and 3) numerous TSCA section 4(a) and (d) studies that were conducted as a result of the EPA's implementation of the Committee's testing recommendations. The Committee continues to review information on chemicals listed in this and other relevant statutes. Efforts to conduct searches also identified chemicals for which TSCA information-gathering activities are ongoing (see Table 1 footnotes). The Committee makes the results of these searches publicly available by referencing TSCA submissions in Reports to the EPA Administrator or making tables and references of these submissions available in the public dockets supporting a Report to the EPA Administrator.

During this reporting period, the Committee considered available information on over 40 chemicals and over 30 chemical groups. The Committee designated 6 chemicals and recommended 3 chemicals and 11 chemical groups to the section 4(e) Priority Testing List. Review of the remaining chemicals and chemical groups is ongoing.

1.3.c *Information dissemination.* To emphasize the Committee's efforts to promote public understanding of the ITC's functions and purposes, the Committee is listing some of the Committee-related activities that occurred during this reporting period. On April 14, 1991, the Executive Director presented a keynote speech at the American Society for Testing and Material's First Symposium on Environmental Toxicology and Risk Assessment. On May 3, 1991, the Executive Director submitted comments to EPA's proposed multi-substance rules for neurotoxicity and developmental/ reproductive toxicity. Comments supported the development of these rules, listed chemicals and chemical groups (contained in these rules) that were previously recommended and designated by the ITC, identified additional information that EPA could consider during promulgation of final rules and offered to share requested or voluntarily submitted information received in response to chemicals of common concern.

To facilitate coordination of chemical testing and to promote conservation of chemical testing resources, Committee Members (from Agencies likely to use data resulting from ITC's chemical group recommendations) and the Executive Director met with the Synthetic Organic Chemical Manufactures Association and the Chemical Manufactures Association to discuss completed, ongoing and planned testing of chemical groups recommended in the 26th Report.

To promote a comprehensive evaluation of recent exposure information, the Committee is soliciting voluntary use exposure and release information that is unlikely to be submitted in response to the TSCA Section 8(a) rule that is promulgated for any chemical or chemical group recommended for testing. In this 28th Report, the Committee is soliciting voluntary use exposure and release information for imidazolium quaternary ammonium compounds and ethoxylated quaternary ammonium compounds (22nd Report), chloroalkyl phosphates (23rd Report), brominated flame retardants (25th Report), isocyanates, brominated flame retardants and alkyl phosphates (26th Report), aldehydes, sulfones and substantially produced chemicals in need of subchronic tests (27th Report) as well as the 3 chemicals and 11 chemical groups recommended for testing and listed in Table 1 of this Report.

To promote a comprehensive evaluation of recent physical and chemical property information, the Committee is soliciting voluntary submission of this information for any chemicals in chemical groups recommended for testing since the Committee's 24th Report. The Committee is soliciting voluntary submissions, because under 40 CFR 716.50, TSCA Section 8(d) studies of physical and chemical properties must be submitted only if they are performed for the purpose of determining the environmental or biological fate of a substance, and only if they investigated water solubility, adsorption/desorption on particulate surfaces, vapor pressure, octanol/water partition coefficient, density, dissociation constant, etc. The

Committee recognizes that before chemicals are manufactured, many physical and chemical properties are measured (including those mentioned above, but also including flash point, melting point, boiling point, etc.), but not for the purpose of determining the environmental or biological fate of a substance. Member Agencies often need these physical and chemical properties that would not be developed as part of an environmental or biological fate assessment.

The Committee hopes that a voluntary approach for use exposure data and physical chemical property information will prove more efficient than pursuing notice-and-comment rulemaking under a TSCA section 8(a) Comprehensive Assessment Information Rule.

In response to requests (made during the Executive Director's June 20, 1990 Congressional testimony) to clarify the number of chemicals and chemical groups recommended for testing by the ITC, the Committee is publishing two tables in this 28th Report listing 123 chemicals and 38 chemical groups that have been recommended for testing since 1977.

1.3.d *Referrals.* Rationales for not recommending health effects testing of chloral are provided in the ITC's 27th Report. Chloral and chloral hydrate were sequentially reviewed. An identical rationale supports not recommending chloral hydrate for health effects testing, i.e., Committee review of TSCA section 8(d) studies to avoid duplicative and unnecessary testing and review of TSCA section 8(a) submitted information as well as any use exposure and release and physical chemical property information that is voluntarily submitted, before deciding whether to designate the chemical for testing. In the interim, the Committee is referring chloral hydrate to the EPA, the FDA and the NTP for health effects testing consideration.

1.3.e *Deferrals.* To promote public understanding of the total number of chemicals that the Committee processes, the Committee is listing over 800 chemicals in 6 chemical groups that are being deferred from further consideration at this time because the chemicals were not reported to the EPA or the U.S. International Trade Commission as being recently produced. In addition the Committee is also deferring methyl isothiocyanate (CAS No. 556–61–6), because of uncertainties related to testing under TSCA and phosgene (CAS No. 75–44–5), because of concerns related to the inability to properly design inhalation toxicity studies. Deferred and other chemicals are recycled through the Committee's computerized processes to identify chemicals whose production volumes have substantially changed. On the following list of deferrals, chemicals nos. 1 through 243 are alkynes, chemicals nos. 244–269 are phosphonium compounds, chemicals nos. 270–410 are oxiranes, chemicals nos. 411 through 678 are alkoxysilanes, chemicals nos. 679 through 716 are isothiocyanates, and chemicals nos. 717 through 830 are hydrazines.

No.	Chemical Name	CAS No.
1.	19-Norpregna-1,3,5(10)-trien-20-yne-3,17-diol, (17.alpha.)-	57–63–6
2.	Ethyne	74–86–2
3.	Cyclohexanol, 1-ethynyl-	78–27–3
4.	2-Butyne-1,4-diamine, *N,N,N',N'*-tetraethyl-	105–18–0
5.	2-Penten-4-yn-1-ol, 3-methyl-	105–29–3
6.	1-Hexyn-3-ol	105–31–7
7.	1-Propyne, 3-bromo-	106–96–7
8.	3-Hexyn-2-ol	109–50–2
9.	2-Octynoic acid, methyl ester	111–12–6
10.	2-Butyne-1,4-diamine, *N,N,N',N'*-tetramethyl-	111–53–5
11.	2-Nonynoic acid, methyl ester	111–80–8
12.	2-Butyne-1,4-diamine, *N,N'*-diethyl-	112–22–1
13.	Cyclohexanol, 1-ethynyl-, carbamate	126–52–3
14.	Benzenemethanol, .alpha.-ethynyl-.alpha.-methyl-	127–66–2
15.	2-Butynedioic acid	142–45–0
16.	1,3-Butadiyne	460–12–8
17.	2-Propynoic acid	471–25–0
18.	Benzene, 1,1'-(1,2-ethynediyl)bis-	501–65–5
19.	2-Butyne	503–17–3
20.	Benzene, ethynyl-	536–74–3
21.	2-Butynediamide	543–21–5
22.	2-Butynoic acid	590–93–2
23.	1-Propyne, 3-chloro-	624–65–7
24.	2-Propynal	624–67–9
25.	1-Pentyne	627–19–0
26.	1,5-Hexadiyne	628–16–0
27.	1-Heptyne	628–71–7
28.	1-Octyne	629–05–0
29.	1-Hexadecyne	629–74–3
30.	Carbon monoxide	630–08–0
31.	2-Propynoic acid, 3-phenyl-	637–44–5
32.	2-Butyne, 1,1,1,4,4,4-hexafluoro-	692–50–2
33.	1-Hexyne	693–02–7
34.	2-Butynedioic acid, dimethyl ester	762–42–5
35.	1-Decyne	764–93–2
36.	1-Dodecyne	765–03–7
37.	1-Tetradecyne	765–10–6
38.	1-Pentadecyne	765–13–9
39.	1-Octyn-3-ol	818–72–4
40.	2-Butyne, 1,4-dichloro-	821–10–3
41.	1,7-Octadiyne	871–84–1
42.	7-Octyn-1-ol	871–91–0
43.	Benzene, 1,1'-(1,3-butadiyne-1,4-diyl)bis-	886–66–8
44.	3-Hexyn-1-ol	1002–28–4
45.	5-Decyne-4,7-diol	1070–40–2
46.	1-Butyne, 3-chloro-3-methyl-	1111–97–3
47.	2-Butyne-1,4-diol, diacetate	1573–17–7

No.	Chemical Name	CAS No.
48.	3-Penten-1-yne, 3-methyl-	1574-33-0
49.	1-Pentyne, 3-methylene-	1574-34-1
50.	2-Butyn-1-ol, 4-(2-hydroxypropoxy)-	1606-79-7
51.	2-Propanol, 1,1'-(2-butynylenedioxy)bis 3-chloro-	1606-83-3
52.	1,9-Decadiyne	1720-38-3
53.	2-Propyn-1-ol, 3-iodo-	1725-82-2
54.	2-Propyn-1-ol, propionate	1932-92-9
55.	1-Pentyn-3-ol, 3-methyl-1-phenyl-	1966-65-0
56.	3-Butyn-2-ol	2028-63-9
57.	2-Butyne, 1,4-dibromo-	2219-66-1
58.	1-Undecyne	2243-98-3
59.	1,6-Heptadiyne	2396-63-6
60.	1,8-Nonadiyne	2396-65-8
61.	2-Propyn-1-amine	2450-71-7
62.	10-Undecyn-1-ol	2774-84-7
63.	1-Buten-3-yne, 1-methoxy-	2798-73-4
64.	3-Hexen-1-yne, (*E*)-	2807-09-2
65.	3-Butyn-2-amine, 2-methyl-	2978-58-7
66.	Benzene, 1-ethynyl-3-nitro-	3034-94-4
67.	Carbamic acid, (3-chlorophenyl)-, 4-hydroxy-2-butynyl ester	3159-28-2
68.	1-Nonyne	3452-09-3
69.	Hydroperoxide, (1,1,4,4-tetramethyl-2-butyne-1,4-diyl)bis-	3491-36-9
70.	2-Propyn-1-amine, *N,N*-diethyl-	4079-68-9
71.	1,10-Undecadiyne	4117-15-1
72.	Cyclohexanol, 1-ethynyl-, acetate	5240-32-4
73.	Cyclohexanol, 1-ethynyl-, propanoate	5445-76-1
74.	2-Pentyn-1-ol	6261-22-9
75.	2-Propyn-1-amine, *N,N*-dimethyl-	7223-38-3
76.	2-Nonynoic acid, ethyl ester	10031-92-2
77.	Anthracene, 9,10-bis(phenylethynyl)-	10075-85-1
78.	3-Pentyn-1-ol	10229-10-4
79.	2-Undecynoic acid, ethyl ester	10519-17-2
80.	2-Octynoic acid, ethyl ester	10519-20-7
81.	2-Nonynal, dimethyl acetal	13257-44-8
82.	7-Octyn-1-ol, acetate	13860-68-9
83.	2-Propenoic acid, 2-methyl-, 2-propynyl ester	13861-22-8
84.	1-Pentyne, 5-chloro-	14267-92-6
85.	9,10-Anthracenediol, 9,10-dihydro-9,10-bis(phenylethynyl)-	14825-85-5
86.	3-Octyn-1-ol	14916-80-4
87.	2-Propanol, 1,3-bis(2-propynyloxy)-	16169-22-5
88.	7-Dodecyn-1-ol, acetate	16504-87-3
89.	2*H*-Pyran, tetrahydro-2-(7-octynyloxy)-	16695-31-1
90.	2*H*-Pyran, 2-(7-dodecynyloxy)tetrahydro-	16695-32-2
91.	3-Decyne, 10-chloro-	18295-64-2
92.	1-Propyne, 3-(1-ethoxyethoxy)-	18669-04-0
93.	Naphthacene, 5,12-bis(phenylethynyl)-	18826-29-4
94.	2*H*-Pyran, tetrahydro-2-(9-tetradecynyloxy)-	19754-59-7
95.	5-Hexyn-3-ol	19780-84-8
96.	1,11-Dodecadiyne	20521-44-2
97.	1-Butyne, 3-chloro-	21020-24-6
98.	2-Pentyne, 1-chloro-	22592-15-0
99.	1-Octyn-3-ol, 3-methyl-	23580-51-0
100.	1-Octyne, 8-chloro-	24088-97-9
101.	6-Nonen-1-yn-3-ol, 3,7-dimethyl-	24173-47-5
102.	2*H*-Pyran-2-one, tetrahydro-6-(2-pentynyl)-	25448-66-2
103.	1-Tridecyne	26186-02-7
104.	8-Dodecyn-1-ol, acetate	26906-26-3
105.	1-Undecyne, 11-chloro-	29043-93-4
106.	6-Octen-1-yn-3-ol, 3,7-dimethyl-	29171-20-8
107.	6-Octen-1-yn-3-ol, 3,7-dimethyl-, acetate	29171-21-9
108.	Cyclohexanamine, 1-ethynyl-	30389-18-5
109.	6-Octen-1-yne, 3-(1-ethoxyethoxy)-3,7-dimethyl-	31180-77-5
110.	5,12-Naphthacenediol, 5,12-dihydro-5,12-bis(phenylethynyl)-	31559-43-0
111.	2,4-Hexadiyne-1,6-diol, bis(4-methylbenzenesulfonate)	32527-15-4
112.	3-Butyn-2-ol, 2-methyl-4-(3-nitrophenyl)-	33432-52-9
113.	1-Butyne, 4,4-dimethoxy-	33639-45-1
114.	11-Tetradecyn-1-ol	33925-73-4
115.	Cholest-5-en-3-ol (3.beta.)-, 2-propynyl carbonate	33985-07-8
116.	5-Dodecyne, 1-chloro-	35087-20-8
117.	7-Octadecyne, 2-methyl-	35354-38-2
118.	Cyclohexanol, 1-ethynyl-2-(1-methylpropyl)-, acetate	37172-05-7
119.	Cyclohexanol, 1-ethynyl-2-(1-methylpropyl)-	37172-89-7
120.	9-Tricosyne	39487-08-6
121.	4-Octyn-3-ol, 3-methyl-6-methylene-	40454-29-3
122.	2-Butyn-1-ol, 4-[(tetrahydro-3-thienyl)oxy]-, *S,S*-dioxide	40456-28-8
123.	Anthracene, 1-chloro-9,10-bis(phenylethynyl)-	41105-35-5
124.	7-Hexadecyne, 1,1-dimethoxy-	41862-85-5
125.	7-Dodecyn-1-ol	41862-94-6
126.	5-Dodecyne, 12-chloro-	42513-36-0
127.	12-Tetradecen-9-yn-1-ol, (*E*)-	42521-44-8
128.	2*H*-Pyran, 2-(9-dodecynyloxy)tetrahydro-	50816-21-2
129.	2*H*-Pyran, 2-(5-decynyloxy)tetrahydro-	51652-45-0

No.	Chemical Name	CAS No.
130.	2*H*-Pyran, tetrahydro-2-(10-undecynyloxy)-	51953-88-9
131.	11-Hexadecen-7-yn-1-ol, acetate, (*E*)-	53042-78-7
132.	11-Hexadecen-7-yn-1-ol, acetate, (*Z*)-	53042-80-1
133.	1,5-Decadiyne	53963-03-4
134.	5-Decen-1-yne, (*E*)-	53963-07-8
135.	Benzenamine, 3-ethynyl-	54060-30-9
136.	6,10-Dodecadien-1-yn-3-ol, 3,7,11-trimethyl-	54325-12-1
137.	5-Decyne, 1-chloro-	54377-34-3
138.	2*H*-Pyran, tetrahydro-2-(11-tetradecen-9-ynyloxy)-, (*E*)-	54664-77-6
139.	6-Heneicosyn-11-one	54844-69-8
140.	6-Heneicosyn-11-ol	54844-70-1
141.	Carbamic acid, butyl-, 3-iodo-2-propynyl ester	55406-53-6
142.	Cyclopentanone, 2-(2-pentynyl)-	57026-62-7
143.	5,9-Hexadecadiyne, 16-chloro-	58444-07-8
144.	5-Nonen-3-yne, 9-bromo-, (*E*)-	58763-65-8
145.	5-Dodecen-3-yne, 12-(1-ethoxyethoxy)-, (*E*)-	58763-67-0
146.	7-Dodecen-9-yn-1-ol, (*E*)-	58763-68-1
147.	9-Tetradecyn-1-ol	60037-69-6
148.	1-Pentyne, 5-(1-ethoxyethoxy)-	61565-19-3
149.	2-Hexyn-1-ol, 6-(1-ethoxyethoxy)-	61565-20-6
150.	4-Tridecen-7-yne, 1-(1-ethoxyethoxy)-, (*E*)-	61565-23-9
151.	4-Tridecen-7-yn-1-ol, (*E*)-	61565-24-0
152.	7,11-Hexadecadiyn-1-ol, acetate	62103-12-2
153.	6-Octen-4-yn-3-ol, 3,6-dimethyl-	62851-70-1
154.	1-Butyne, 4-chloro-3-methyl-	63150-17-4
155.	2*H*-Pyran, 2-(8-dodecynyloxy)tetrahydro-	64604-68-8
156.	6-Octen-1-yn-3-ol, 3,7-dimethyl-, propanoate	65416-30-0
157.	2*H*-Pyran, tetrahydro-2-(13-octadecen-3-ynyloxy)-, (*Z*)-	67616-77-7
158.	2-Propenoic acid, 2-methyl-, 2-butyne-1,4-diyl ester	67905-43-5
159.	6-Dodecyne-5,8-diol, 2,5,8,11-tetramethyl-	68227-33-8
160.	5-Decyn-1-ol	68274-97-5
161.	2-Pentyne, 1-(1-ethoxyethoxy)-	68480-09-1
162.	Cyclopentanecarboxylic acid, 2-oxo-1-(2-pentynyl)-, methyl ester	68480-23-9
163.	2-Nonynoic acid, 3-hexenyl ester, (*Z*)-	68480-29-5
164.	2*H*-Pyran, tetrahydro-2-(12-tetradecen-9-ynyloxy)-, (*E*)-	68516-29-0
165.	11-Tetradecen-9-yn-1-ol, (*E*)-	68516-32-5
166.	14-Nonacosyne	68516-35-8
167.	2-Octynoic acid, 3-methylbutyl ester	68555-60-2
168.	2-Octynoic acid, 3-hexenyl ester, (*Z*)-	68698-58-8
169.	1,3-Dioxepin, 5,6-didehydro-2-hexyl-4,7-dihydro-	68797-69-3
170.	Cyclohexane, (ethynyloxy)-	68877-57-6
171.	3-Butyn-2-ol, 4-(3-aminophenyl)-2-methyl-	69088-96-6
172.	5-Hexadecen-9-yne, 16-chloro-, (*E*)-	70682-66-5
173.	2*H*-Pyran, tetrahydro-2-(11-tetradecynyloxy)-	71084-06-5
174.	2*H*-Pyran, 2-(11-dodecynyloxy)tetrahydro-	71084-07-6
175.	9-Dodecyn-1-ol	71084-08-7
176.	7-Pentadecyne, 1-chloro-13-methyl-	71317-61-8
177.	3-Tridecyne, 13-chloro-	71317-62-9
178.	5-Tridecyne, 13-chloro-	71317-63-0
179.	5-Hexadecyne, 16,16-dimethoxy-	71317-64-1
180.	3-Decyn-1-ol, 10-chloro-	71317-65-2
181.	3,5-Pentadecadiyne, 15-chloro-	71317-68-5
182.	6-Pentadecyne, 1-chloro-	71317-69-6
183.	7-Pentadecyne, 15-chloro-	71317-70-9
184.	1-Undecyne, 11-bromo-	71317-72-1
185.	3-Nonyne, 8,8-dimethoxy-	71317-76-5
186.	2*H*-Pyran, tetrahydro-2-(12-tetradecen-9-ynyloxy)-	71317-77-6
187.	5-Hexadecyne, 16,16-diethoxy-	71393-93-6
188.	2*H*-Pyran, tetrahydro-2-[(3,13-tetradecadiynyl)oxy]-	71393-94-7
189.	5-Tetradecyne, 14,14-dimethoxy-	71393-97-0
190.	5-Tetradecyne, 14,14-diethoxy-	71393-98-1
191.	3-Octadecen-13-yn-1-ol, acetate, (*E*)-	71393-99-2
192.	12-Tetradecen-9-yn-1-ol, acetate, (*E*)-	71394-01-9
193.	1-Octyne, 1-bromo-8-chloro-	71487-12-2
194.	1-Undecyne, 1-bromo-11-chloro-	71487-13-3
195.	7-Hexadecyne, 16,16-diethoxy-	71487-14-4
196.	7-Hexadecyne, 16,16-dimethoxy-	71487-15-5
197.	2*H*-Pyran, tetrahydro-2-(3-tetradecen-13-ynyloxy)-, (*E*)-	71566-58-0
198.	5-Pentadecyne, 15-chloro-	71566-60-4
199.	3-Tetradecyne, 14,14-dimethoxy-	71566-61-5
200.	1-Nonyne, 7-methyl-	71566-65-9
201.	8-Hexadecyne, 1,1-dimethoxy-14-methyl-	71566-66-0
202.	8-Hexadecyne, 1,1-diethoxy-14-methyl-	71566-67-1
203.	3-Tetradecyne, 14,14-diethoxy-	71598-29-3
204.	2*H*-Pyran, tetrahydro-2-(3,13-octadecadiynyloxy)-	71673-25-1
205.	3,13-Octadecadiyn-1-ol, acetate	71673-26-2
206.	2*H*-Pyran, 2-[(10-chloro-3-decynyl)oxy]tetrahydro-	71673-29-5
207.	3,5-Dodecadiyne, 12-chloro-	71673-30-8
208.	3,5-Hexadecadiyne, 16,16-diethoxy-	71673-31-9
209.	1,11-Hexadecadiyne	71673-32-0
210.	2*H*-Pyran, 2-(11,13-hexadecadiynyloxy)tetrahydro-	71673-33-1
211.	13-Octadecen-3-yn-1-ol, acetate, (*Z*)-	71832-74-1

No.	Chemical Name	CAS No.
212.	1-Hexen-5-yne, 2-bromo-	72121-84-7
213.	1-Dodecyn-3-oi, 3-methyl-, acetate	72152-85-3
214.	Propanoic acid, 2-methyl-, 1-ethynylcyclohexyl ester	72230-92-3
215.	2-Nonynoic acid, 2-propenyl ester	72939-63-0
216.	Propionitrile, 3-[(1,1-dimethyl-2-propynyl)oxy]-	15496-08-9
217.	2-Butynedicic acid, monopotassium salt	928-04-1
218.	Silane, ethynyltrimethyl-	1066-54-2
219.	Carbonic acid, decynyl methyl ester	1322-34-5
220.	2-Propyn-1-ol, 3-(trimethylsilyl)-	5272-36-6
221.	Silane, trimethyl(2-propynyloxy)-	5582-62-7
222.	Silane, triethoxyethynyl-	5700-28-7
223.	Cyclopentanol, 1,1'-(1,3-butadiyne-1,4-diyl)bis-	7179-09-1
224.	2-Propenoic acid, 2-propynyl ester	10477-47-1
225.	Silane, trimethyl-2-propynyl-	13361-64-3
226.	Silane, 1,2-ethynediylbis[trimethyl-	14630-40-1
227.	Cyclopentanol, 1-ethynyl-	17356-19-3
228.	Silane, 1,2-ethynediylbis[chlorodimethyl-	18156-91-7
229.	Hexyne	26856-30-4
230.	1-Propyne-1-sulfonic acid, sodium salt	28672-98-2
231.	Benzene, diethynyl-	30700-96-0
232.	1-Propanesulfonic acid, 2-hydroxy-3-[(4-hydroxy-2-butynyl)oxy]-,monosodium salt	35193-14-7
233.	Methanesulfonic acid, trifluoro-, 2-propynyl ester	41029-46-3
234.	Silane, (7-dodecen-9-ynyloxy)trimethyl-, (*E*)-	58763-69-2
235.	9,10-Anthracenediol, 9,10-dihydro-9,10-bis(phenylethynyl)-, di-lithium salt	67845-99-2
236.	1-Propanesulfonic acid, 2-hydroxy-3-[(3-hydroxy-1-propynyl)oxy]-,monosodium salt	67874-61-7
237.	1-Propanesulfonic acid, 3,3-[2-butyne-1,4-diylbis(oxy)]bis[2-hydroxy-], disodium salt	67874-62-8
238.	Magnesium, bromo[8-[(tetrahydro-2*H*-pyran-2-yl)oxy]-1-octynyl]-	68516-36-9
239.	1,4-Benzenedimethanol, .alpha.,.alpha.,.alpha.',.alpha.'-tetra-methyl-, compd. with (1,1,4,4-tetramethyl-2-butyne-1,4-diy	70833-41-9
240.	Benzeneacetic acid, 2-propynyl ester	72928-39-3
241.	2-Octynoic acid, 2-propenyl ester	73157-43-4
242.	Silane, tris[(1,1-dimethyl-2-propynyl)oxy]methyl-	83817-71-4
243.	2-Nonynoic acid, 2-methylpropyl ester	84282-44-0
244.	Phosphonium, tetrakis(hydroxymethyl)-, chloride	124-64-1
245.	Phosphonium, [3-methyl-5-(2,6,6-trimethyl-1-cyclohexen-1-yl)-2,4-pentadienyl]triphenyl-,sulfate (1:1)	751-83-7
246.	Phosphonium, ethyltriphenyl-, chloride	896-33-3
247.	Phosphonium, [1,4-phenylenebis(methylene)]bis[triphenyl-, dichloride	1519-47-7
248.	Phosphonium, triphenyl(3-phenyl-2-propenyl)-, chloride	1530-35-4
249.	Phosphonium, tributyl-2-propenyl-, chloride	1530-48-9
250.	Phosphonium, methyltriphenyl-, bromide	1779-49-3
251.	Phosphonium, tetrabutyl-, chloride	2304-30-5
252.	Phosphonium, tetrabutyl-, bromide	3115-68-2
253.	Phosphonium, tetrakis(hydroxymethyl)-, acetate (salt)	7580-37-2
254.	Phosphonium, 1,2-ethanediylbis[tris(2-cyanoethyl)-, dibromide	10310-38-0
255.	Phosphonium, tributylhexadecyl-, bromide	14937-45-2
256.	Phosphonium, triphenyl(phenylmethyl)-	15853-35-7
257.	Phosphonium, tetrabutyl-	15853-37-9
258.	Phosphonium, (2-ethoxy-2-oxoethyl)triphenyl-, chloride	17577-28-5
259.	Phosphonium, tetrabutyl-, acetate, monoacetate	17786-43-5
260.	Phosphonium, tetrakis(hydroxymethyl)-, phosphate (3:1) (salt)	22031-17-0
261.	Phosphonium, ethyltriphenyl-	39895-79-9
262.	Phosphonium, [3-methyl-5-(2,6,6-trimethyl-1-cyclohexen-1-yl)-2,4-pentadienyl]triphenyl-	47739-07-1
263.	Phosphonium, tetrakis(hydroxymethyl)-, ethanedioate (2:1) (salt)	52221-67-7
264.	Phosphonium, ethyltrioctyl-, bromide	56022-37-8
265.	Phosphonium, tetrabutyl-, salt with 1,3-dimethyl 5-sulfo-1,3-benzenedicarboxylate (1:1)	59514-43-1
266.	Phosphonium, nonyltriphenyl-, bromide	60902-45-6
267.	Phosphonium, [(2-methylphenyl)methyl]triphenyl-, chloride	63368-36-5
268.	Phosphonium, triphenyl(phenylmethyl)-, (T-4)-tetrachlorocadmate(2-) (2:1)	68214-25-5
269.	Phosphonium, (4-nitrophenyl)triphenyl-, chloride	72796-90-8
270.	Oxiranecarboxylic acid, 3-methyl-3-phenyl-, ethyl ester	77-83-8
271.	7-Oxabicyclo 4.1.0 heptane, 1-methyl-4-(2-methyloxiranyl)-	96-08-2
272.	Oxiraneoctanoic acid, 3-octyl-, butyl ester	106-83-2
273.	Oxiraneoctanoic acid, 3-octyl-, octyl ester	106-84-3
274.	2-Propenoic acid, oxiranylmethyl ester	106-90-1
275.	Oxiranecarboxylic acid, 3-phenyl-, ethyl ester	121-39-1
276.	Disiloxane, 1,1,3,3-tetramethyl-1,3-bis[3-(oxiranylmethoxy)propyl]-	126-80-7
277.	Oxiraneoctanoic acid, 3-octyl-, 2-ethylhexyl ester	141-38-8
278.	6-Oxabicyclo 3.1.0 hexane	285-67-6
279.	Oxirane, 2,2-dimethyl-	558-30-5
280.	Oxirane, tetrafluoro-	694-17-7
281.	Oxirane, ethenyl-	930-22-3
282.	Oxirane, (methoxymethyl)-	930-37-0
283.	5-Oxatricyclo 8.2.0.04,6 dodecane, 4,12,12-trimethyl-9-methylene-,1R-(1R*,4R*,6R*,10S*) -	1139-30-6
284.	7-Oxabicyclo 4.1.0 heptane, 1-methyl-4-(1-methylethenyl)-	1195-92-2
285.	5-Oxatricyclo 8.2.0.04,6 dodecane, 4,9,12,12-tetramethyl-	1209-61-6
286.	2,2-Bioxirane	1464-53-5
287.	Oxiranepentanol, .gamma.,3,3-trimethyl-	1564-98-3
288.	Oxiranemethanamine, *N*-(oxiranylmethyl)-*N*-phenyl-	2095-06-9
289.	Oxirane, 2,2-[1,2-ethanediylbis(oxymethylene)]bis-	2224-15-9
290.	6-Oxabicyclo 3.1.0 hexane, 2,2-oxybis-	2386-90-5
291.	Oxirane, octyl-	2404-44-6
292.	Oxirane, 2,2-[1,4-phenylenebis(oxymethylene)]bis-	2425-01-6
293.	Oxirane, decyl-	2855-19-8

No.	Chemical Name	CAS No.
294.	3-Oxatricyclo 3.2.1.02,4 octane, 6-ethenyl-	2886-87-5
295.	Silane, diethoxymethyl[3-(oxiranylmethoxy)propyl]-	2897-60-1
296.	Oxiranemethanaminium, *N,N,N*-trimethyl-, chloride	3033-77-0
297.	Oxirane, 2,2-((1-methylethylidene)bis((2,6-dibromo-4,1-phenylene)-oxymethylene))bis-	3072-84-2
298.	Oxirane, (2,2,2-trichloroethyl)-	3083-25-8
299.	Oxirane, (bromomethyl)-	3132-64-7
300.	Benzenemethanol, 5-[1-methyl-1-[4-(oxiranylmethoxy)phenyl]ethyl]-2-(oxiranylmethoxy)-	3188-83-8
301.	Oxirane, dodecyl-	3234-28-4
302.	Oxirane, 2,3-dimethyl-	3266-23-7
303.	Oxirane, [(octyloxy)methyl]-	3385-66-8
304.	Oxiranedodecanoic acid, 3-octyl-, cis-	3420-36-8
305.	Oxirane, [(decycloxy)methyl]-	3497-06-1
306.	2-Propanol, 1,3-bis(oxiranylmethoxy)-	3568-29-4
307.	Oxirane, (ethoxymethyl)-	4016-11-9
308.	Oxirane, (1-methylethoxy)methyl -	4016-14-2
309.	1-Oxaspiro 2.5 oct-5-ene, 2,2,6-trimethyl-	4584-23-0
310.	Oxirane, tetramethyl-	5076-20-0
311.	Oxirane, (4-nitrophenoxy)methyl -	5255-75-4
312.	1H-Isoindole-1,3(2H)-dione, 2-(oxiranylmethyl)-	5455-98-1
313.	Oxirane, ((hexyloxy)methyl)-	5926-90-9
314.	Propane, 1,2-epoxy-3-(p-nonylphenoxy)-	6178-32-1
315.	Spiro bicyclo 3.1.1 heptane-2,2-oxirane , 6,6-dimethyl-	6931-54-0
316.	1,2-Benzenedicarboxylic acid, bis(oxiranylmethyl) ester	7195-45-1
317.	Oxirane, hexadecyl-	7390-81-0
318.	Trisiloxane, 1,1,1,3,5,5,5-heptamethyl-3-[3-(oxiranylmethoxy)-propyl]-	7422-52-8
319.	Oxirane, 2,2',2''-[1,2,3-propanetriyltris(oxymethylene)]tris-	13236-02-7
320.	Oxirane, 2,2'-(oxiranylmethoxy)-1,3-phenylene bis(methylene) bis-	13561-08-5
321.	2*H*-2a,7-Methanoazuleno 5,6-b oxirene, octahydro-3,6,6,7a-tetra-methyl-, 1a*S*-(1a.alpha.,2a.beta.,3.alpha.,5a.alpha.,7.b.	13567-39-0
322.	13-Oxabicyclo 10.1.0 trideca-4,8-diene, 1,5,9-trimethyl-	13786-79-3
323.	13-Oxabicyclo 10.1.0 trideca-4,8-diene, 2,6,10-trimethyl-	14840-89-2
324.	2,4-Imidazolidinedione, 5,5-dimethyl-1,3-bis(oxiranylmethyl)-	15336-81-9
325.	Oxirane, (hexadecyloxy)methyl -	15965-99-8
326.	Oxirane, (octadecyloxy)metnyl -	16245-97-9
327.	Oxiranecarboxylic acid, 3-(4-methoxyphenyl)-, ethyl ester	16546-01-3
328.	Silane, ethoxydimethyl[3-(oxiranylmethoxy)propyl]-	17963-04-1
329.	Oxirane, tridecyl-	18633-25-5
330.	Oxirane, (2,4-dibromophenoxy)methyl -	20217-01-0
331.	Cedrane, 8,15-epoxy-	22037-88-3
332.	Oxirane, pentadecyl-	22092-38-2
333.	Oxirane, [(2,6-dibromo-4-methylphenoxy)methyl]-	22421-59-6
334.	2,5-Methano-2*H*-indeno[1,2-b]oxirenol, octahydro-	26616-34-2
335.	4a,7-Methano-4aH-naphth 1,8a-b oxirene, octahydro-4,4,8,8-tetra-methyl-,1aR-(1a.alpha.,4a.alpha.,7.alpha.,8aS*) -	26619-69-2
336.	3-Oxatricyclo 5.1.0.02,4 octane, 5,8,8-trimethyl-	27867-36-3
337.	Oxiranemethanamine, *N,N*-(methylenedi-4,1-phenylene)bis *N*-(oxiranylmethyl)-	28768-32-3
338.	Oxirane, 2,2-dimethyl-3-(3-methylene-4-pentenyl)-	29414-55-9
339.	Cedrane, 8,9-epoxide-	29597-36-2
340.	Oxirane, 2-decyl-3-(5-methylhexyl)-, cis-	29804-22-6
341.	2,4-Imidazolidinedione, 5,5-dimethyl-3-[2-(oxiranylmethoxy)propyl]-1-(oxiranylmethyl)-	32568-89-1
342.	Oxirane, (1,2-dibromopropoxy)methyl -	35243-89-1
343.	3-Cyclohexene-1-carboxaldehyde, 4-[2-(3,3-dimethyloxiranyl)ethyl]-	37677-09-1
344.	3-Cyclohexene-1-carboxaldehyde, 3-[2-(3,3-dimethyloxiranyl)ethyl]-	37677-10-4
345.	2,4-Imidazolidinedione, 3,3'-[2-(oxiranylmethoxy)-1,3-propanediyl]-bis 5,5-dimethyl-1-(oxiranylmethyl)-	38304-52-8
346.	1H,4H-3a,8a-Epoxy-4,7-methanoazulene, hexahydro-1,4,10,10-tetra-methyl-, (1.alpha.,3a.beta.,4.alpha.,7.alpha.,8a.beta.)	38337-32-5
347.	Oxirane, (2,2,3,3,4,4,5,5,6,6,7,7,7-tridecafluoroheptyl)-	38565-52-5
348.	Oxirane, (tetradecyloxy)methyl -	38954-75-5
349.	Oxirane, 2,2'-[methylenebis(phenyleneoxymethylene)]bis-	39817-09-9
350.	Oxiranemethanamine, *N*-(2-methylphenyl)-*N*-(oxiranylmethyl)-	40027-50-7
351.	Oxirane, (5-methoxy-1,5-dimethylhexyl)-	40454-19-1
352.	Spiro 1,4-methanoazulene-9,2'-oxirane , decahydro-4,8,8-trimethyl-	41530-82-9
353.	Oxiranepropanol, .alpha.-ethenyl-.alpha.,3,3-trimethyl-, acetate	41610-76-8
354.	Oxirane, 2,2'-[oxybis[(methyl-2,1-ethanediyl)oxymethylene]]bis-	41638-13-5
355.	Spiro 1,4-methanonapthalene-2(1H),2'-oxirane , 3,4,4a,5,8,8a-hexa-hydro-3',6-dimethyl-	41723-98-2
356.	2-Propenoic acid, 2-methyl-, (2-methyloxiranyl)methyl ester	41768-20-1
357.	Spiro 1,4-methanonaphthalene-2(1H),2'-oxirane , 3,4,4a,5,8,8a-hexahydro-3',7-dimethyl-	41816-03-9
358.	Oxiranecarboxylic acid, 3-(4-methoxyphenyl)-, methyl ester	42245-42-1
359.	Oxirane, 2,3-bis(chloromethyl)-, trans-	45467-40-1
360.	Oxirane, 2,3-bis(chloromethyl)-, cis-	50703-46-3
361.	4a,7-Ethano-4aH-naphth 1,8a-b oxirene, octahydro-4,4,7-trimethyl-	51115-88-9
362.	Oxiranecarboxylic acid, 3-(4-methylphenyl)-, ethyl ester	52788-71-3
363.	Phenol, 2-methoxy-4-(oxiranylmethyl)-	53940-49-1
364.	Oxirane, (9-octadecenyloxy)methyl -, (*Z*)-	60501-41-9
365.	Oxirane, 4-(1-methyl-1-phenylethyl)phenoxy methyl -	61578-04-9
366.	Oxiranemethanaminium, *N,N*-dimethyl-*N*-[2-[(2-methyl-1-oxo-2-propenyl)oxy]ethyl]-, chloride	62351-05-7
367.	3 Heptanone, 4-methyl-6-oxiranyl-	63324-22-1
368.	1,3-Benzenedimethanamine, *N,N,N',N'*-tetrakis(oxiranylmethyl)-	63738-22-7
369.	Oxiranecarboxylic acid, 3-(4,8-dimethyl-7-nonenyl)-3-methyl-	65416-34-4
370.	Oxiranecarboxylic acid, 3-methyl-3-octyl-	65416-35-5
371.	Oxiranecarboxylic acid, 3-methyl-3-(4-methyl-3-pentenyl)-	65416-36-6
372.	1,3-Cyclohexanedimethanamine, *N,N,N',N'*-tetrakis(oxiranylmethyl-)-	65992-66-7
373.	Oxiraneethanol, 3-ethyl-	67663-02-9
374.	1H,4H-3a,8a-Epoxy-4,7-methanoazulene, hexahydro-1,4,10,10-tetramethyl-	67710-71-8
375.	Oxirane, heptadecyl-	67860-04-2

No.	Chemical Name	CAS No.
376.	Oxiranecarboxylic acid, 3-methyl-3-[2-(2,6,6-trimethyl-2-cyclo-hexen-1-yl)ethenyl]-, methyl ester	67905-40-2
377.	2*H*-4,7a-Ethanonaphth 1,2-b oxirene, octahydro-3a,4,7b-trimethyl-	67919-67-9
378.	4a,7-Methano-4aH-naphth 1,8a-b oxirene, octahydro-4,4,8,8-tetramethyl-	67999-56-8
379.	Oxirane, (1,3-dimethylbutoxy)methyl -	68134-06-5
380.	Oxirane, (6-methylheptyl)oxy methyl -	68134-07-6
381.	Pyridinium, 2-amino-1-(oxiranylmethyl)-, chloride	68258-96-8
382.	Titanium, tris[10-(3-hexyloxiranyl)-9-decencato-O1](2-propanolato)-,(T-4)-	68443-39-0
383.	Titanium, tris(3-octyloxiraneoctancato-O.alpha.)(2-propanolato)-,(T-4)-	68443-40-3
384.	2,4-Imidazolidinedione, 5-ethyl-5-(2-methylbutyl)-1,3-bis(oxiranyl-methyl)-	68444-05-3
385.	Oxirane, 2,2,2-[propylidynetris(4,1-phenyleneoxymethylene)]tris-	68517-02-2
386.	Titanium, [hydroxyacetato(2-)-O1,O2[(isooctadecanoato-O)]11-[3-(2-pentenyl)oxiranyl]-9-undecenoato-O1]-	68739-04-8
387.	Titanium, tris[8-[2-(2,5-octadienyl)oxiranyl]octanoato-O1](2-propanolato)-, (T-4)-	68784-86-1
388.	Titanium, tris[11-[2-(2-pentenyl)oxiranyl]-9-undecenoato-O1](2-propanolato)-, (T-4)-	68797-79-5
389.	3H-Naphth 1,8a-b oxiren-7-ol, octahydro-4,4,7-trimethyl-	68845-01-2
390.	Oxiranecarboxylic acid, 2-phenylethyl ester	68892-14-8
391.	Oxiranecarboxylic acid, 3-(2-hydroxyphenyl)-, ethyl ester	68922-02-1
392.	Cyclopropa 5,6 naphth 1,8a-b oxirene, decahydro-1,7,7,7b-tetra-methyl-, 1R-(1.alpha.,3a.beta.,4aR*,6a.alpha.,7a.alpha.	68926-75-0
393.	Oxirane, 2,2,2-[1,2,6-hexanetriyltris(oxymethylene)]tris-	68958-23-9
394.	2-Furanaminium, tetrahydro-*N,N*-dimethyl-*N*-(oxiranylmethyl)-,chloride	68959-27-3
395.	Titanium, tris[3-(2-octenyl)oxiraneoctanoato-O.alpha.](2-propanolato)-, (T-4)-	69098-43-6
396.	Titanium, (hydroxyacetato-O1,O2)(isooctadecanoato-O)(3-octyl-oxiraneoctanoato-O.alpha.)-	69103-13-5
397.	Titanium, (hydroxyacetato-O1,O2)(isooctadecanoato-O)[3-(2,5-octa-dienyl)oxiraneoctanoato-O.alpha.]-	69103-14-6
398.	Titanium, [14-(3-ethyloxiranyl)-9,12-tetradecadienoato-O1](hydroxy-acetato-O1,O2)(isooctadecanoato-O)-	69103-15-7
399.	Tetrasiloxane, 1,1,1,3,5,7,7,7-octamethyl-3,5-bis[3-(oxiranyl-methoxy)propyl]-	69155-42-6
400.	2-Propenoic acid, 2-methyl-, telomer with tert-dodecanethiol, methyl2-methyl-2-propenoate and oxiranylmethyl 2-methyl-2	70161-56-7
401.	Oxirane, 2,2- (1-methylethylidene)bis 4,1-phenyleneoxy 1-(butoxy-methyl)-2,1-ethanediyl oxymethylene bis-	71033-08-4
402.	Anthra[2,3-b]oxirene-3,8-dione, 1a,2,2a,8a,9,9a-hexahydro-1a-methyl-	71173-51-8
403.	Anthra[2,3-b]oxirene-3,8-dione, 1a,2,9,9a-tetrahydro-1a-methyl-	71173-53-0
404.	7-Oxabicyclo 4.1.0 heptane-3-methanol, .alpha.,.alpha.,6-trimethyl-	71242-69-8
405.	Silane, (3-chloropropyl)dimethoxy[3-(oxiranylmethoxy)propyl]-	71808-64-5
406.	Oxiranecarboxylic acid, 3-bicyclo 2.2.1 hept-5-en-2-yl-3-methyl-,methyl ester	72175-33-8
407.	Oxirane, 2-methyl-3-tridecyl-	72302-10-4
408.	Oxirane, 2,2'-[(1-methylethylidene)bis]4,1-phenyleneoxy-3,1-propanediyloxy-4,1-phenylene(1-methylethylidene)-4,1-phenyleneoxymethylene]]bis-.	72319-24-5
409.	Oxirane, [(2,4-dibromo-5-methylphenoxy)methyl]-	72727-69-6
410.	Oxirane, [(2,4-dibromo-6-methylphenoxy)methyl]-	75150-13-9
411.	Silane, triethoxyethyl-	78-07-9
412.	Silane, diethoxydimethyl-	78-62-6
413.	Silicic acid (H4SiO4), tetrakis(2-ethylhexyl) ester	115-82-2
414.	Silicic acid (H6Si2O7), hexakis(2-ethylbutyl) ester	126-51-2
415.	Silane, dimethoxymethyl(3,3,3-trifluoropropyl)-	358-67-8
416.	Silane, trimethoxy(3,3,3-trifluoropropyl)-	429-60-7
417.	Phosphonic acid, [2-(triethoxysilyl)ethyl]-, diethyl ester	757-44-8
418.	Silane, diethoxymethylphenyl-	775-56-4
419.	Silane, chlorodimethoxymethyl-	994-07-0
420.	Silane, triethoxy-	998-30-1
421.	Silane, trimethyl(4-nitrophenoxy)-	1014-66-0
422.	Silane, trimethoxypropyl-	1067-25-0
423.	Silicic acid (H4SiO4), tetra-2-propenyl ester	1067-43-2
424.	Butanenitrile, 4-(triethoxysilyl)-	1067-47-6
425.	Silane, butyltrimethoxy-	1067-57-8
426.	Silane, dimethoxydimethyl-	1112-39-6
427.	Silicic acid (H4SiO4), tetraphenyl ester	1174-72-7
428.	Silane, ethoxytriphenyl-	1516-90-9
429.	Silane, trimethylphenoxy-	1529-17-5
430.	Silane, ethoxydimethylphenyl-	1825-58-7
431.	Silane, methoxytrimethyl-	1825-61-2
432.	Silane, ethoxytrimethyl-	1825-62-3
433.	Silane, trimethylpropoxy-	1825-63-4
434.	Silane, chloromethoxydimethyl-	1825-68-9
435.	Silane, trimethyl[(1-methylethenyl)oxy]-	1833-53-0
436.	Silane, [[(3.beta.)-cholest-5-en-3-yl]oxy]trimethyl-	1856-05-9
437.	Silicic acid (H4SiO4), tetrakis(1-methylethyl) ester	1992-48-9
438.	Silane, diethoxymethyl-	2031-62-1
439.	Silicic acid (H4SiO4), tetrakis(2-methoxyethyl) ester	2157-45-1
440.	Silane, (chloromethyl)diethoxymethyl-	2212-10-4
441.	Silanamine, 1,1,1-triethoxy-	2325-41-9
442.	Propanenitrile, 3-(trimethoxysilyl)-	2526-62-7
443.	1-Propanamine, *N,N*-dimethyl-3-(trimethoxysilyl)-	2530-86-1
444.	Silane, triethoxy(phenylmethyl)-	2549-99-7
445.	Silane, triethoxypropyl-	2550-02-9
446.	Silane, triethoxy-2-propenyl-	2550-04-1
447.	Silane, trimethoxy-2-propenyl-	2551-83-9
448.	Silane, diethoxydiphenyl-	2553-19-7
449.	Silane, triethoxypentyl-	2761-24-2
450.	Silane, diethoxymethyl[3-(oxiranylmethoxy)propyl]-	2897-60-1
451.	Silane, dimethoxymethylphenyl-	3027-21-2
452.	Benzenamine, *N*-[3-(trimethoxysilyl)propyl]-	3068-76-6
453.	Silane, hexyltrimethoxy-	3069-19-0
454.	1-Propanamine, *N*-methyl-3-(trimethoxysilyl)-	3069-25-8
455.	2-Butenedioic acid (*Z*)-, bis[3-(trimethoxysilyl)propyl] ester	3090-21-9
456.	2-Butenedioic acid (*E*)-, bis[3-(trimethoxysilyl)propyl] ester	3371-62-8

No.	Chemical Name	CAS No.
457.	2,8,9-Trioxa-5-aza-1-silabicyclo[3.3.3]undecane, 1-ethoxy-	3463-21-6
458.	Silane, [(1,1-dimethylethyl)dioxy]trimethyl-	3965-63-7
459.	Silicic acid (H4SiO4), tetrakis(phenylmethyl) ester	4424-00-4
460.	Silicic acid (H4Si2O7), hexa-sec-butyl ester	4444-59-1
461.	Silicic acid (H8Si3O10), octaethyl ester	4521-94-2
462.	Silane, chlorotriethoxy-	4667-99-6
463.	Silicic acid (H4SiO4), tetrabutyl ester	4766-57-8
464.	Silicic acid (H12Si5O16), dodecaethyl ester	4935-68-6
465.	Silane, diethoxydiethyl-	5021-93-2
466.	Silane, (3-chloropropyl)triethoxy-	5089-70-3
467.	Silane, ethyltrimethoxy-	5314-55-6
468.	Silane, ethenylethoxydimethyl-	5356-83-2
469.	Silane, ethenyldiethoxymethyl-	5507-44-8
470.	Silane, methyltripropoxy-	5581-66-8
471.	Silane, trimethyl(2-propynyloxy)-	5582-62-7
472.	Silane, triethoxyethynyl-	5700-28-7
473.	1,4-Butanediamine, 2-[(trimethoxysilyl)methyl]-	6037-49-6
474.	1-Propanamine, *N*-methyl-3-(triethoxysilyl)-	6044-50-4
475.	Silane, (ethenyloxy)trimethyl-	6213-94-1
476.	Silicic acid (H4SiO4), tetrapentyl ester	6382-12-3
477.	Silane, (1-cyclohexen-1-yloxy)trimethyl-	6651-36-1
478.	Silicic acid (H4SiO4), tetrakis(2-aminoethyl) ester	7057-73-0
479.	Ethanol, 2,2'-[[3-(triethoxysilyl)propyl]imino]bis-	7538-44-5
480.	Ethanethiol, 2-(trimethoxysilyl)-	7538-45-6
481.	Silane, tris(2-chloroethoxy)-	10138-79-1
482.	Silicic acid, methyl ester	12002-26-5
483.	Acetic acid, dianhydride with silicic acid (H4SiO4) diethyl ester	13170-18-8
484.	Acetic acid, trianhydride with silicic acid (H4SiO4) tert-butyl ester	13170-22-4
485.	1-Propanamine, 3-(triethoxysilyl)-*N*-[3-(triethoxysilyl)propyl]-	13497-18-2
486.	Silane, (chloromethyl)ethoxydimethyl-	13508-53-7
487.	Silane, trimethyl[(1-phenylethenyl)oxy]-	13735-81-4
488.	1-Propanethiol, 3-(triethoxysilyl)-	14814-09-6
489.	Silane, ethoxydimethyl-	14857-34-2
490.	Silane, tris[(1,1-dimethylethyl)dioxy]ethenyl-	15188-09-7
491.	Silane, (chloromethyl)triethoxy-	15267-95-5
492.	Silane, (3-isocyanatopropyl)trimethoxy-	15396-00-6
493.	Silicic acid (H4SiO4), tetracyclohexyl ester	15717-29-0
494.	Silicic acid (H4SiO4), tetrakis(2-methylphenyl) ester	16714-40-2
495.	Silicic acid (H4SiO4), tetrakis(3-methylphenyl) ester	16714-54-8
496.	Silane, ethenyldimethoxymethyl-	16753-62-1
497.	Silane, dimethoxymethyl-	16881-77-9
498.	Silane, ethoxydimethyl(phenylmethyl)-	17151-27-8
499.	Silicic acid (H4SiO4), tetrakis(2-hydroxyethyl) ester	17622-94-5
500.	Silane, methoxytripropyl-	17841-46-2
501.	Silane, (4-bromophenoxy)trimethyl-	17878-44-3
502.	2,5,7,10-Tetraoxa-6-silaundecane, 6-(2-methoxyethoxy)-6-phenyl-	17903-05-8
503.	Acetic acid, dianhydride with silicic acid (H4SiO4) dipropyl ester	17906-69-3
504.	Silane, tris(pentyloxy)-	17907-97-0
505.	Propanenitrile, 2-(triethoxysilyl)-	17932-62-6
506.	Silane, ethenylethoxydiphenyl-	17933-85-6
507.	Silane, ethoxydimethyl[3-(oxiranylmethoxy)propyl]-	17963-04-1
508.	Silane, triethoxy(2-methylpropyl)-	17980-47-1
509.	2,5,7,10-Tetraoxa-6-silaundecane, 6-(2-methoxyethoxy)-6-methyl-	17980-64-2
510.	Silane, ethenyltris(1-methylethoxy)-	18023-33-1
511.	Silane, triethoxy(1,4,5,6,7,7-hexachlorobicyclo[2.2.1]hept-5-en-2-yl)-	18052-83-0
512.	Silane, chlorotris(1-methylpropoxy)-	18105-63-0
513.	Silane, bis(2-chloroethoxy)dimethyl-	18141-42-9
514.	Silane, trimethyl(2-propenyloxy)-	18146-00-4
515.	Silane, bis(2-chloroethoxy)methyl-	18147-17-6
516.	Silicic acid (H4SiO4), di-tert-butyl diethyl ester	18151-86-5
517.	Silane, diethoxy-	18165-68-9
518.	Silicic acid (H4SiO4), tris(1-methylpropyl) ester	18166-44-4
519.	Silane, (3-chloropropyl)dimethoxymethyl-	18171-19-2
520.	Ethanethiol, 2-(triethoxysilyl)-	18236-15-2
521.	Silane, (2-chloroethyl)triethoxy-	18279-67-9
522.	Silane, diethoxymethyl-2-propenyl-	18388-45-9
523.	Silane, dichlorobis(1,1-dimethylethoxy)-	18395-80-7
524.	Silane, bicyclo[2.2.1]hept-5-en-2-yltriethoxy-	18401-43-9
525.	2,7-Dioxa-3,6-disilaoctane, 3,3,6,6-tetramethoxy-	18406-41-2
526.	Silicic acid (H4SiO4), tetrakis(2-ethoxyethyl) ester	18407-94-8
527.	Benzenamine, *N,N*-dimethyl-4-(triethoxysilyl)-	18418-79-6
528.	Silane, dodecyltriethoxy-	18536-91-9
529.	Phosphine, diphenyl[2-(triethoxysilyl)ethyl]-	18586-39-5
530.	Silane, ethenyltriphenoxy-	18666-65-4
531.	Silane, trimethyl(octadecyloxy)-	18748-98-6
532.	Silicic acid (H4SiO4), tetrakis(2-butoxyethyl) ester	18765-38-3
533.	Silicic acid (H14Si6O19), tetradecaethyl ester	18768-59-7
534.	Menthol, tetraester with silicic acid (H4SiO4)	18888-09-0
535.	Silane, trimethyl(1-propenyloxy)-	19879-97-1
536.	Silane, (1-butenyloxy)trimethyl-, (*Z*)-	19980-22-4
537.	Silane, (1-butenyloxy)trimethyl-, (*E*)-	19980-23-5
538.	Silane, (1-cyclopenten-1-yloxy)trimethyl-	19980-43-9

No.	Chemical Name	CAS No.
539.	Silane, dichloromethyl[3-[1,2,2,2-tetrafluoro-1-(trifluoromethyl-)-ethoxy]propyl]-	20006-68-2
540.	1-Aza-2-silacyclopentane, 2,2-diethoxy-1-(trimethylsilyl)-	21297-72-3
541.	Silane, (4-chlorophenyl)triethoxy-	21700-74-3
542.	Butanoic acid, 4-(triethoxysilyl)-, trimethylsilyl ester	23416-06-0
543.	Silane, [(1,1-dimethyl-2-propenyl)oxy]dimethyl-	23483-22-9
544.	Urea, [2-[[3-(trimethoxysilyl)propyl]amino]ethyl]-	23779-33-1
545.	Silane, [4-(chloromethyl)phenyl]trimethoxy-	24413-04-5
546.	Silicic acid (H4SiO4), tetrakis[2-(2-methoxyethoxy)ethyl] ester	24685-89-0
547.	Silane, triethoxy(3-isocyanatopropyl)-	24801-88-5
548.	Silane, [(10-bromodecyl)oxy]trimethyl-	26306-02-5
549.	2-Propen-1-amine, *N,N*-bis[(triethoxysilyl)methyl]-	26868-19-9
550.	Silicic acid (H4SiO4), tetrakis(methylphenyl) ester	26952-29-4
551.	1-Octadecanaminium, *N,N*-dimethyl-*N*-[3-(trimethoxysilyl)propyl]-,chloride	27668-52-6
552.	Ethanamine, 2-(2,8,9-trioxa-5-aza-1-silabicyclo[3.3.3]undec-1-yloxy)-*N,N*-bis[[2-(2,8,9-trioxa-5-aza-1-silabicyclo]3.3.3]	29167-65-5
553.	Benzenesulfonyl azide, [2-(trimethoxysilyl)ethyl]-	29385-30-6
554.	1H-Pyrrole-2,5-dione, 1-[3-(triethoxysilyl)propyl]-	29602-11-7
555.	2-Propen-1-amine, *N*-[3-(trimethoxysilyl)propyl]-	31024-46-1
556.	Morpholine, 4-[3-(trimethoxysilyl)propyl]-	31024-54-1
557.	1-Butanamine, *N*-[3-(trimethoxysilyl)propyl]-	31024-56-3
558.	1-Propanaminium,*N,N*-dimethyl-*N*-[2-[(2-methyl-1-oxo-2-propenyl)oxy]ethyl]-3-(trimethoxysilyl)-, chloride	31681-13-7
559.	1,2-Ethanediamine,*N*-[(ethenylphenyl)methyl]-*N'*-[3-(trimethoxysilyl)-propyl]-,monohydrochloride	34937-00-3
560.	1-Propanamine, *N,N*-dimethyl-3-(trimethoxysilyl)-, acetate	35141-35-6
561.	1-Propanaminium, *N,N,N*-trimethyl-3-(trimethoxysilyl)-, chloride	35141-36-7
562.	Silicic acid, 2-ethoxyethyl ester	37338-04-8
563.	Silicic acid (H4SiO4), tetraethyl ester, polymer with 1,2-ethanediol	38742-72-2
564.	1-Propanamine, *N,N*-diethyl-3-(trimethoxysilyl)-	41051-80-3
565.	1-Tetradecanaminium, *N,N*-dimethyl-*N*-[3-(trimethoxysilyl)propyl]-,chloride	41591-87-1
566.	Silane, [2-[2-(chloromethyl)phenyl]ethyl]trimethoxy-	42861-95-0
567.	Silane, trimethoxy(2-phenylethyl)-	49539-88-0
568.	Silane, trimethoxy-7-octenyl-	52217-57-9
569.	Benzenamine, 4-[3-(trimethoxysilyl)propoxy]-	55648-29-8
570.	2-Propanol, 1,1'-[[3-(triethoxysilyl)propyl]imino]bis[3-chloro-	56709-05-8
571.	Silane, dichloro(2-methoxyethyl)methyl-	58066-88-9
572.	1H-Imidazole, 4,5-dihydro-1-[3-(triethoxysilyl)propyl]-	58068-97-6
573.	Carbamimidothioic acid, 3-(trimethoxysilyl)propyl ester, monohydrochloride	58505-58-1
574.	Silane, (7-dodecen-9-yloxy)trimethyl-, (*E*)-	58763-69-2
575.	Silane, [(3-methoxy-1-methylene-2-propenyl)oxy]trimethyl-	59414-23-2
576.	Silane, dodecyldiethoxymethyl-	60317-40-0
577.	Benzamide, 4-nitro-*N*-[3-(triethoxysilyl)propyl]-	60871-86-5
578.	1-Octanesulfonamide,*N*-ethyl-1,1,2,2,3,3,4,4,5,5,6,6,7,7,8,8,8-heptadecafluoro-*N*-[3-(trimethoxysilyl)propyl]-	61660-12-6
579.	Silicic acid (H4SiO4), tetrakis(1,1-dimethylpentyl) ester	63449-47-8
580.	Silanamine, 1-methoxy-	64051-31-6
581.	1,2-Ethanediamine, *N*-[3-(trimethoxysilyl)propyl]-, monohydro-chloride	64339-13-5
582.	Silanol, bis(1,1-dimethylethoxy)ethenyl-, acetate	64426-39-7
583.	Silanediol, (1,1-dimethylethoxy)ethenyl-, diacetate	64426-40-0
584.	Ethanethiol, 2,2'-thiobis-,polymer with ethenylethoxydimethyl-silane, .alpha.-hydro-.omega.-hydroxypoly[oxy(methyl-1,2-ethanediyl)],5-isocyanato-1-(isocyanatomethyl)-1,3,3-trimethylcyclohexane, .alpha.-alpha'-.alpha"-1,2,3-propenetriyltris[.omega.-hydroxypolyloxy(meth-1,2-ethanediyl)]] &2-propen-1-ol.	66564-49-6
585.	Ethanethiol, 2,2-oxybis-,polymer with ethenylethoxydimethylsilane,.alpha.-hydro-.omega.-hydroxypoly[oxy(methyl-1,2-ethanediyl)],5-isocyanato-1-(isocyanatomethyl)-1,3,3-trimethylcyclohexane,.alpha.-alpha'-.alpha"-1,2,3-propenetriyltris[.omega.-hydroxypolyloxy(meth-1,2-ethanediyl)]] &2-propen-1-ol.	66564-50-9
586.	2-Propen-1-ol, polymer with ethoxydimethylsilane, .alpha.-hydro-.omega.-hydroxypoly[oxy(methyl-1,2-ethanediyl)],5-isocyanato-1-(isocyanatomethyl)-1,3,3-trimethylcyclohexane,.alpha.-alpha'-.alpha"-1,2,3-propenetriyltris[.omega.-hydroxypolyloxy(meth-1,2-ethanediyl)]] & 2-propen-1-ol.	66564-54-3
587.	2-Propen-1-ol, polymer with dimethoxymethylsilane, .alpha.-hydro-.omega.-hydroxypoly[oxy(methyl-1,2-ethanediyl)],5-isocyanato-1-(isocyanatomethyl)-1,3,3-trimethylcyclohexane,.alpha.-alpha'-.alpha"-1,2,3-propenetriyltris[.omega.-hydroxypolyloxy(meth-1,2-ethanediyl)]] & 2-propen-1-ol.	66564-55-4
588.	2-Propen-1-ol, polymer with 1,1'-(diisocyanatomethylene)bis[benzene], ethoxydimethylsilane,.alpha.-hydro-.omega.-hydroxypolyloxy(meth-1,2-ethanediyl)]].	66564-56-5
589.	Ethanethiol, 2,2'-thiobis-,polymer with ethenyldiethoxymethylsilane,.alpha.-hydro-.omega.-hydroxypoly[oxy(methyl-1,2-ethanediyl)],5-isocyanato-1-(isocyanatomethyl)-1,3,3-trimethylcyclohexane, .alpha.-alpha'-.alpha"-1,2,3-propenetriyltris[.omega.-hydroxypolyloxy(meth-1,2-ethanediyl)]] &2-propen-1-ol.	66564-57-6
590.	Ethanethiol, 2,2'-oxybis-,polymer with 1,1'-(diisocyanatomethylene)bis[benzene], ethenylethoxydimethylsilane,.alpha.-hydro-.omega.-hydroxypoly[oxy(methyl-1,2-ethanediyl)], .alpha.-alpha'-.alpha"-1,2,3-propenetriyltris[.omega.-hydroxypolyloxy(meth-1,2-ethanediyl)]] & 2-propen-1-ol.	66564-58-7
591.	Ethanethiol, 2,2'-thiobis-,polymer with 1,1'-(diisocyanatomethylene)bis[benzene], ethenylethoxydimethylsilane,.alpha.-hydro-.omega.-hydroxypoly[oxy(methyl-1,2-ethanediyl)],.alpha.-alpha'-.alpha"-1,2,3-propenetriyltris[.omega.-hydroxypolyloxy(meth-1,2-ethanediyl)]] & 2-propen-1-ol.	66564-59-8
592.	Ethanethiol, 2,2'-oxybis-, polymer with ethenyldiethoxymethylsilane, .alpha.-hydro-.omega.-hydroxypoly[oxy(methyl-1,2-ethanediyl)],5-isocyanato-1-(isocyanatomethyl)-1,3,3-trimethylcyclohexane,.alpha.-alpha'-.alpha"-1,2,3-propenetriyltris[.omega.-hydroxypolyloxy(meth-1,2-ethanediyl)]] &2-propen-1-ol.	66564-60-1
593.	Ethanethiol, 2,2'-[1,2-ethanediylbis(oxy)]bis-, polymer with ethenyldiethoxymethylsilane, .alpha.-hydro-.omega.-hydroxypoly[oxy(methyl-1,2-ethanediyl)],5-isocyanato-1-(isocyanatomethyl)-1,3,3-trimethylcyclohexane,.alpha.-alpha'-.alpha"-1,2,3-propenetriyltris[.omega.-hydroxypolyloxy(meth-1,2-ethanediyl)]] & 2-propen-1-ol.	66564-61-2
594.	2-Propen-1-ol, polymer with 1,1'-(diisocyanatomethylene)bis-[benzene], dimethoxymethylsilane,.alpha.-hydro-.omega.-hydroxypoly[oxy(methyl-1,2-ethanediyl)],.alpha.-alpha'-.alpha"-1,2,3-propenetriyltris[.omega.-hydroxypolyloxy(meth-1,2-ethanediyl)]].	66564-65-6
595.	Ethanethiol, 2,2'-oxybis-, poiymer with ethenylethoxydimethylsilane, .alpha.-hydro-.omega.-hydroxypoly[oxy(methyl-1,2-ethanediyl)], 1,1'-methylenebis[4-isocyanatocyclohexane],.alpha.-alpha'-.alpha"-1,2,3-propenetriyltris[.omega.-hydroxypolyloxy(meth-1,2-ethanediyl)]] & 2-propen-1-ol.	66564-66-7
596.	Ethanethiol, 2,2'-oxybis-, polymer with ethenyldiethoxymethylsilane, .alpha.-hydro-.omega.-hydroxypoly[oxy(methyl-1,2-ethanediyl)], 1,1'-methylenebis[4-isocyanatocyclohexane],.alpha.-alpha'-.alpha"-1,2,3-propenetriyltris[.omega.-hydroxypolyloxy(meth-1,2-ethanediyl)]] & 2-propen-1-ol.	66564-67-8

No.	Chemical Name	CAS No.
597.	Ethanethiol, 2,2'-[1,2-ethanediylbis(oxy)]bis-, polymer with ethenylethoxydimethylsilane, .alpha.-hydro-.omega.-hydroxypoly[oxy(methyl-1,2-ethanediyl)], 1,1'-methylenebis[4-isocyanatocyclohexane], .alpha.-alpha.'-.alpha''.-1,2,3-propenetriyltris[.omega.-hydroxypolyloxy(meth-1,2-ethanediyl)]] & 2-propen-1-ol.	66564-68-9
598.	Ethanethiol, 2,2'-[1,2-ethanediylbis(oxy)]bis-, polymer with ethenyldiethoxymethylsilane, .alpha.-hydro-.omega.-hydroxypoly[oxy(methyl-1,2-ethanediyl)], 1,1'-methylenebis[4-isocyanatocyclohexane], .alpha.-alpha'-.alpha''.-1,2,3-propenetriyltris[.omega.-hydroxypolyloxy(meth-1,2-ethanediyl)]] &2-propen-1-ol.	66564-69-0
599.	Ethanethiol, 2,2'-thiobis-, polymer with ethenylethoxydimethylsilane, .alpha.-hydro-.omega.-hydroxypoly[oxy(methyl-1,2-ethanediyl)], 1,1'-methylenebis[4-isocyanatocyclohexane], .alpha.-alpha'-.alpha''.-1,2,3-propenetriyltris[.omega.-hydroxypolyloxy(meth-1,2-ethanediyl)]] & 2-propen-1-ol.	66564-70-3
600.	Ethanethiol, 2,2'-thiobis-, polymer with ethenyldiethoxymethylsilane, .alpha.-hydro-.omega.-hydroxypoly[oxy(methyl-1,2-ethanediyl)], 1,1'-methylenebis[4-isocyanatocyclohexane], .alpha.-alpha'-.alpha''.-1,2,3-propenetriyltris[.omega.-hydroxypolyloxy(meth-1,2-ethanediyl)]] & 2-propen-1-ol.	66564-71-4
601.	Ethanethiol, 2,2'-oxybis-, polymer with 1,1'-(diisocyanatomethylene)bis[benzene], ethenyldiethoxymethylsilane, .alpha.-hydro-.omega.-hydroxypoly[oxy(methyl-1,2-ethanediyl)],.alpha.-alpha'-.alpha''.-1,2,3-propenetriyltris[.omega.-hydroxypolyloxy(meth-1,2-ethanediyl)]].	66564-72-5
602.	Ethanethiol, 2,2'-thiobis-, polymer with 1,1'-(diisocyanatomethylene)bis[benzene], ethenyldiethoxymethylsilane, .alpha.-hydro-.omega.-hydroxypoly[oxy(methyl-1,2-ethanediyl)], .alpha.-alpha'-.alpha''.-1,2,3-propenetriyltris[.omega.-hydroxypolyloxy(meth-1,2-ethanediyl)]].	66564-75-8
603.	2-Propen-1-ol, polymer with ethoxydimethylsilane, .alpha.-hydro-.omega.-hydroxypoly[oxy(methyl-1,2-ethanediyl)], 1,1'-methylenebis [4-isocyanatocyclohexane], .alpha.-alpha'-.alpha''.-1,2,3-propenetriyltris[.omega.-hydroxypolyloxy(meth-1,2-ethanediyl)]].	66564-79-2
604.	2-Propen-1-ol, polymer with dimethoxymethylsilane, .alpha.-hydro-.omega.-hydroxypoly[oxy(methyl-1,2-ethanediyl)], 1,1'-methylenebis [4-isocyanatocyclohexane], .alpha.-alpha'-.alpha''.-1,2,3-propenetriyltris[.omega.-hydroxypolyloxy(meth-1,2-ethanediyl)]].	66564-80-5
605.	Ethanethiol, 2,2'-oxybis-, polymer with 1,3-diisocyanatomethylbenzene, ethenylethoxydimethylsilane, .alpha.-hydro-.omega.-hydroxypoly[oxy(methyl-1,2-ethanediyl)], .alpha.-alpha'-.alpha''.-1,2,3-propenetriyltris[.omega.-hydroxypolyloxy(meth-1,2-ethanediyl)]] & 2-propen-1-ol.	66564-81-6
606.	2-Propen-1-ol, polymer with 1,3-diisocyanatomethylbenzene,ethoxydimethylsilane, .alpha.-hydro-.omega.-hydroxypoly[oxy(methyl-1,2-ethanediyl)], .alpha.-alpha'-.alpha''.-1,2,3-propenetriyltris[.omega.-hydroxypolyloxy(meth-1,2-ethanediyl)]].	66564-85-0
607.	2-Propen-1-ol, polymer with 1,3-diisocyanatomethylbenzene, dimethoxymethylsilane, .alpha.-hydro-.omega.-hydroxypoly[oxy(methyl-1,2-ethanediyl)], .alpha.-alpha'-.alpha''.-1,2,3-propenetriyltris[.omega.-hydroxypolyloxy(meth-1,2-ethanediyl)]].	66564-86-1
608.	Ethanethiol, 2,2'-thiobis-, polymer with 1,3-diisocyanatomethyl-benzene, ethenylethoxydimethylsilane, .alpha.-hydro-.omega.-hydroxypoly[oxy(methyl-1,2-ethanediyl)], .alpha.-alpha'-.alpha''.-1,2,3-propenetriyltris[.omega.-hydroxypolyloxy(meth-1,2-ethanediyl)]] & 2-propen-1-ol.	66564-87-2
609.	Ethanethiol, 2,2'-[1,2-ethanediylbis(oxy)]bis-, polymer with 1,3-diisocyanatomethylbenzene, ethenyldiethoxymethylsilane, .alpha.-hydro-.omega.-hydroxypoly[oxy(methyl-1,2-ethanediyl)], .alpha.-alpha'-.alpha''.-1,2,3-propenetriyltris[.omega.-hydroxypolyloxy(meth-1,2-ethanediyl)]] & 2-propen-1-ol.	66564-88-3
610.	Ethanethiol, 2,2'-oxybis-, polymer with 1,3-diisocyanatomethylbenzene, ethenyldiethoxymethylsilane, .alpha.-hydro-.omega.-hydroxypoly[oxy(methyl-1,2-ethanediyl)], .alpha.-alpha'-.alpha''.-1,2,3-propenetriyltris[.omega.-hydroxypolyloxy(meth-1,2-ethanediyl)]] & 2-propen-1-ol.	66564-89-4
611.	Ethanethiol, 2,2'-thiobis-, polymer with 1,3-diisocyanatomethylbenzene, ethenyldiethoxymethylsilane, .alpha.-hydro-.omega.-hydroxypoly(oxy-1,4-butanediyl).	66591-91-1
612.	Ethanethiol, 2,2'-[1,2-ethanediylbis(oxy)]bis-, polymer with ethenyl-ethoxydimethylsilane, .alpha.-hydro-.omega.-hydroxypoly[oxy(methyl-1,2-ethanediyl)], 5-isocyanato-1-(isocyanatomethyl)-1,3,3-trimethylcyclohexane, .alpha.-alpha'-.alpha''.-1,2,3-propenetriyltris[.omega.-hydroxypolyloxy(meth-1,2-ethanediyl)]] & 2-propen-1-ol.	66634-82-0
613.	Silane, [2-(3-cyclohexen-1-yl)ethyl]trimethoxy-	67592-36-3
614.	1-Propanamine, *N*-(phenylmethylene)-3-(trimethoxysilyl)-	67674-55-9
615.	1-Propanamine, *N,N*-dimethyl-3-(trimethoxysilyl)-, hydrochloride	67674-56-0
616.	.beta.-Alanine, *N*-[3-(triethoxysilyl)propyl]-	67674-57-1
617.	Dodecanamide, *N*-[2-[[3-(trimethoxysilyl)propyl]amino]ethyl]-,monohydrochloride	67674-58-2
618.	Octadecanamide, *N*-[2-[[3-(trimethoxysilyl)propyl]amino]ethyl]-,monohydrochloride	67674-59-3
619.	1-Propanamine, *N*-(1-phenylethylidene)-3-(triethoxysilyl)-	67674-60-6
620.	Silane, diethoxymethyloctadecyl-	67859-75-0
621.	Ethanaminium, *N,N,N*-trimethyl-2-oxo-2-[[3-(triethoxysilyl)propyl]amino]-, iodide	67874-63-9
622.	Silane, diethenyldiethoxy-	67892-60-8
623.	Silane, tetrakis(cyclononyloxy)-	67939-80-4
624.	1,2-Ethanediamine, *N*-[(ethenylphenyl)methyl]-N'-[3-(trimethoxysilyl)propyl]-	68092-72-8
625.	Silane, [2-[3(or 4)-(chloromethyl)phenyl]ethyl]trimethoxy-	68128-25-6
626.	2-Oxa-7,10-diaza-3-silaundecan-11-ol, 7,10-bis(hydroxymethyl)-3,3-dimethoxy-	68140-42-1
627.	Silicic acid (H4SiO4), ethyl trihexadecyl ester	68171-54-0
628.	1-Heptanesulfonamide, *N*-ethyl-1,1,2,2,3,3,4,4,5,5,6,6,7,7,7-pentadecafluoro-*N*-[3-(trimethoxysilyl)propyl]-	68239-75-8
629.	Silanamine, 1-(1,1-dimethylethoxy)-1,1-dimethyl-*N*-(1-methylethyl)-	68310-81-6
630.	Benzenesulfonyl azide, 4-[2-(trimethoxysilyl)ethyl]-	68479-60-7
631.	Carbamic acid, [3-(triethoxysilyl)propyl]-, 5-methyl-2-(1-methyl-ethyl)cyclohexyl ester	68479-61-8
632.	Silane, trimethyl(9,11-tetradecadienyloxy)-, (*E,Z*)-	68516-30-3
633.	Urea, *N,N''-(methylphenylene)bis[N'-[3-(triethoxysilyl)propyl]]*-	68845-12-5
634.	1,2-Ethanediamine, *N,N'-bis[3-(trimethoxysilyl)propyl]*-	68845-16-9
635.	Silane, [(4-undecyl-1-cyclopentene-1,2-diyl)bis(oxy)]bis[trimethyl-	68892-10-4
636.	1-Decanaminium, *N*-decyl-*N*-methyl-*N*-[3-(trimethoxysilyl)propyl]-,chloride	68959-20-6
637.	Urea, *N*-(1-phenylethyl)-N'-[3-(triethoxysilyl)propyl]-	68959-21-7
638.	1-Propanamine, *N*-(phenylmethylene)-3-(triethoxysilyl)-	69227-26-5
639.	Silane, (2-bromo-2-methyl-1-methylenepropoxy)trimethyl-	69278-36-0
640.	Silane, triethenylethoxy-	70693-56-0
641.	Silane, diethoxymethoxy(2-methylpropyl)-	70776-21-5
642.	Silane, ethoxydimethoxy(2-methylpropyl)-	70776-22-6
643.	Silicic acid (H4SiO4), tris(1-methylpropyl) 4-methyl-2,4,6,6-tetrakis(1-methylpropoxy)cyclotrisiloxan-2-yl ester	70776-64-6
644.	1-Propanamine, 3-(triethoxysilyl)-, compd. with methyloxiranepolymer with oxirane ether with 1,2,3-propanetriol (3:1) tris(hydrogenbutanedioate).	70850-96-3
645.	Silane, diethoxymethyl(2-phenylpropyl)-	70851-46-6
646.	Silane, dimethoxymethyloctadecyl-	70851-50-2
647.	1H-Imidazole, 1-[3-(trimethoxysilyl)propyl]-	70851-51-3
648.	Benzenesulfonyl azide, 3-[[[2-[[3-(trimethoxysilyl)propyl]amino]-ethyl]amino]carbonyl]-	70851-53-5
649.	9H-Carbazole, 9-[2-(trimethoxysilyl)ethyl]-	70851-54-6
650.	Benzenemethanamine, 3(or 4)-[2-(trimethoxysilyl)ethyl]-	70865-19-9
651.	1-Propanesulfonic acid, 2-hydroxy-3-[3-(trihydroxysilyl)propoxy]-	70869-38-4
652.	1-Naphthalenesulfonamide, 5-(dimethylamino)-*N*-[3-(triethoxysilyl)-propyl]-	70880-05-6

No.	Chemical Name	CAS No.
653.	Octadecanoic acid, trianhydride with silicic acid (H4SiO4) monopropyl ester	70830-06-7
654.	1-Propanesulfonic acid, 3-(trihydroxysilyl)-	70942-24-4
655.	1-Propanesulfonic acid, 3-(trihydroxysilyl)-, monosodium salt	70942-25-5
656.	1-Propanesulfonic acid, 3-(trihydroxysilyl)-, monopotassium salt	70942-26-6
657.	Silicic acid (H4SiO4), 1,3-dimethyl-1,3-disiloxanediylidenedodecakis(1-methylpropyl) ester	70969-50-5
658.	Silicic acid (H4SiO4), tris(1-methylpropyl) 2,4,4,6,6-pentakis(1-methylpropoxy)cyclotrisiloxan-2-yl ester	70969-51-6
659.	Silicic acid (H4SiO4), tris(1-methylpropyl) 2-methyl-4,4,6,6-tetrakis(1-methylpropoxy)cyclotrisiloxan-2-yl ester	70969-53-8
660.	1-Propanesulfonic acid, 3-(trihydroxysilyl)-, potassium sodium salt	71463-77-9
661.	1-Propanesulfonic acid, 2-hydroxy-3-[3-(trihydroxysilyl)propoxy]-,sodium salt	71487-07-5
662.	1-Propanesulfonic acid, 3-[3-(dihydroxymethoxysilyl)propoxy]-2-hydroxy-, sodium salt	71487-19-9
663.	Benzenamine, 3-[3-(trimethoxysilyl)propoxy]-	71550-66-8
664.	Silane, trimethoxy[3-[2-(1-propenyl)phenoxy]propyl]-	71550-67-9
665.	2,4-Imidazolidinedione, 5,5-dimethyl-3-[3-(trimethoxysilyl)propyl]-	71550-68-0
666.	Silane, (3-chloropropyl)dimethoxy[3-(oxiranylmethoxy)propyl]-	71808-64-5
667.	Silane, methoxydimethyloctadecyl-	71808-65-6
668.	Imidodicarbonic acid, [2-[carboxy[3-(trimethoxysilyl)propyl]amino]-ethyl]-, trisodium salt	71808-67-8
669.	Silane, [3-(2,4-cyclopentadien-1-yl)propyl]trimethoxy-	71808-68-9
670.	Imidazole, [2-(triethoxysilyl)ethyl]-	72264-84-7
671.	Phenol, 3-[1-methyl-2-(triethoxysilyl)ethoxy]-	72391-25-4
672.	2,5-Pyrrolidinedione, 1-[3-[3-(trimethoxysilyl)propoxy]phenyl]-	73003-82-4
673.	Nonanamide, *N*-[16,16-bis(2-methoxyethoxy)-17,20-dioxa-3,6,9,12-tetraaza-16-silaheneicos-1-yl]-, monohydrochloride	73545-23-0
674.	1,2-Ethanediamine, *N*-[[[2-(trimethoxysilyl)ethyl]phenyl]methyl]-	74113-77-2
675.	Silicic acid, 1-methylethyl 1-methylpropyl ester	77699-50-4
676.	Silane, tris[(1,1-dimethyl-2-propynyl)oxy]methyl-	83817-71-4
677.	2,9,11,13-Tetraazanonadecanethioic acid, 19-isocyanato-11-(6-isocyanatohexyl)-10,12-dioxo-, *S*-[3-(trimethoxysilyl)propyl	85702-90-5
678.	2,5,7,10-Tetraoxa-6-silaundecane, 6-ethenyl-6-(2-methoxy-1-methylethoxy)-4,8-dimethyl-	96195-81-2
679.	Benzene, 1-fluoro-3-isothiocyanato-	404-72-8
680.	Propane, 1-isothiocyanato-3-(methylthio)-	505-79-3
681.	Ethane, isothiocyanato-	542-85-8
682.	Naphthalene, 1-isothiocyanato-	551-06-4
683.	Propane, 2-isothiocyanato-2-methyl-	590-42-1
684.	Butane, 1-isothiocyanato-	592-82-5
685.	Benzene, (isothiocyanatomethyl)-	622-78-6
686.	Cyclohexane, isothiocyanato-	1122-82-3
687.	Benzene, 1-fluoro-4-isothiocyanato-	1544-68-9
688.	Phenol, 4-isothiocyanato-	2131-60-4
689.	Benzene, 1-isothiocyanato-4-nitro-	2131-61-5
690.	Benzene, (2-isothiocyanatoethyl)-	2257-09-2
691.	Benzonitrile, 4-isothiocyanato-	2719-32-6
692.	Octadecane, 1-isothiocyanato-	2877-26-1
693.	Acetamide, *N*-(3-isothiocyanatophenyl)-	3137-83-5
694.	Spiro isobenzofuran-1(3*H*),9'- 9*H* xanthen -3-one, 3',6'-dihydroxy-5-isothiocyanato-	3326-32-7
695.	Benzene, 1-isothiocyanato-3-nitro-	3529-82-6
696.	Benzene, 1,4-diisothiocyanato-	4044-65-9
697.	Heptane, 1-isothiocyanato-	4426-83-9
698.	Phosphor(isothiocyanatidic) acid, diphenyl ester	5401-14-9
699.	Acridine, 9-isothiocyanato-	7620-46-4
700.	Benzenamine, 4-[2-(4-isothiocyanatophenyl)ethenyl]-	17816-11-4
701.	Fluoran, 3',6'-bis(dimethylamino)-5-isothiocyanato-	20746-54-7
702.	Decane, 1-isothiocyanato-	24540-94-1
703.	Benzene, 1-fluoro-2-isothiocyanato-	38985-64-7
704.	1,3-Benzenedicarboxylic acid, 5-isothiocyanato-, dimethyl ester	72076-50-7
705.	4,7-Methano-1H-indene, octahydro-5-isothiocyanato-,(3a.alpha.,4.alpha.,5.alpha.,7.alpha.,7a.alpha.)-	72403-62-4
706.	4,7-Methano-1H-indene, 3a,4,5,6,7,7a-hexahydro-6-isothiocyanato-,(3a.alpha.,4.alpha.,6.alpha.,7.alpha.,7a.alpha.)-	72403-63-5
707.	Silane, isothiocyanatotrimethyl-	2290-65-5
708.	Silane, tetraisothiocyanato-	6544-02-1
709.	Silane, diisothiocyanatodimethyl-	13125-51-4
710.	Benzenesulfonic acid, 4-isothiocyanato-, sodium salt	17614-69-6
711.	Spiro[isobenzofuran-1(3H),9'-[9H]xanthen]-3-one, 3',6'-dihydroxy-5(or 6)-isothiocyanato-	27072-45-3
712.	1,5-Naphthalenedisulfonic acid, 3-isothiocyanato-, disodium salt	35888-63-2
713.	Xanthylium, 9-[2-carboxy-5(or 6)-isothiocyanatophenyl]-3,6-bis(di-ethylamino)-, chloride	36877-69-7
714.	Benzenesulfonic acid, 5-(acetylamino)-2-[2-(4-isothiocyanato-2-sulfophenyl)ethenyl]-, disodium salt	51023-76-8
715.	Spiro[isobenzofuran-1(3H),9'-[9H]xanthen]-3-one, 3',6'-dihydroxy-5-isothiocyanato-, hydrochloride	63469-13-6
716.	Spiro[isobenzofuran-1(3H),9'-[9H]xanthen]-3-one, 3',6'-bis(diethylamino)-5(or 6)-isothiocyanato-	69856-09-3
717.	Hydrazinecarboxamide	57-56-7
718.	Diazenecarbothioic acid, phenyl-, 2-phenylhydrazide	60-10-6
719.	Hydrazinecarboximidamide	79-17-4
720.	Hydrazinecarbothioamide	79-19-6
721.	Hydrazine, (4-nitrophenyl)-	100-16-3
722.	Hydrazinecarboxamide, 2-phenyl-	103-03-7
723.	Ethanol, 2-hydrazino-	109-84-2
724.	Benzenesulfonic acid, 2,5-dichloro-4-hydrazino-	118-89-8
725.	Hydrazine, (2,4-dinitrophenyl)-	119-26-6
726.	Hydrazine, (2,5-dichlorophenyl)-	305-15-7
727.	Hydrazine, 1,2-dimethyl-, dihydrochloride	306-37-6
728.	Ethanedioic acid, bis(cyclohexylidenehydrazide)	370-81-0
729.	Hydrazinecarbothioamide, 2-(1,2-dihydro-2-oxo-3H-indol-3-ylidene)-	487-16-1
730.	Hydrazine, 1,1-diphenyl-, monohydrochloride	530-47-2
731.	Benzoic acid, hydrazide	613-94-5
732.	Hydrazine, 1,2-bis(2-methylphenyl)-	617-22-1
733.	Hydrazine, 1-methyl-1-phenyl-, sulfate (2:1)	618-26-8
734.	Hydrazine, 1-methyl-1-phenyl-	618-40-6

No.	Chemical Name	CAS No.
735.	Benzoic acid, 3-nitro-, hydrazide	618-94-0
736.	Benzoic acid, 4-hydrazino-	619-67-0
737.	Carbonothioic dihydrazide, 2,2'-diphenyl-	622-03-7
738.	Hydrazine, (4-bromophenyl)-, monohydrochloride	622-88-8
739.	Hydrazine, ethyl-	624-80-6
740.	Hydrazinecarboxaldehyde	624-84-0
741.	1,2-Hydrazinedicarboxaldehyde	628-36-4
742.	Benzoic acid, 4-nitro-, hydrazide	636-97-5
743.	Hydrazine, (4-nitrophenyl)-, monohydrochloride	636-99-7
744.	Hydrazine, (4-methylphenyl)-, monohydrochloride	637-60-5
745.	Hydrazinecarbothioamide, 2-phenyl-	645-48-7
746.	Hydrazine, 1,2-bis(2-chlorophenyl)-	782-74-1
747.	Hydrazine, 1,2-bis(2-methoxyphenyl)-	787-77-9
748.	Benzoic acid, 2-benzoylhydrazide	787-84-8
749.	Hydrazinecarboxylic acid, 1,1-dimethylethyl ester	870-46-2
750.	Decanedioic acid, dihydrazide	925-83-7
751.	Benzoic acid, 2-hydroxy-, hydrazide	936-02-7
752.	Benzoic acid, 2-hydroxy-3,5-dinitro-, hydrazide	955-07-7
753.	Hydrazinecarboximidamide, sulfate (2:1)	996-19-0
754.	Ethanedioic acid, dihydrazide	996-98-5
755.	2-Pyridinecarboximidic acid, hydrazide	1005-02-3
756.	2-Pyridinecarboximidic acid, 4-phenyl-, hydrazide	1019-80-3
757	Acetic acid, hydrazide	1068-57-1
758.	2(3H)-Benzothiazolone, 3-methyl-, hydrazone	1128-67-2
759.	Benzoic acid, 2-benzoyl-1,2-dimethylhydrazide	1226-43-3
760.	Benzenesulfonic acid, 4-methyl-, hydrazide	1576-35-8
761.	Hydrazine, 1,1-diphenyl-2-(2,4,6-trinitrophenyl)-	1707-75-1
762.	Hydrazinecarbothioamide, *N,2-diphenyl-*	1768-59-8
763.	Benzoic acid, 2-amino-, hydrazide	1904-58-1
764.	Hydrazine, 1-naphthalenyl-, monohydrochloride	2243-56-3
765.	Benzenesulfonic acid, 4-bromo-, hydrazide	2297-64-5
766.	Hydrazinecarbothioamide, 1-formyl-	2302-84-3
767.	Acetic acid, 2-(4-nitrophenyl)hydrazide	2719-13-3
768.	Acetic acid, 2-acetylhydrazide	3148-73-0
769.	Benzoic acid, 2-hydroxy-, (2-hydroxyphenyl)methylene hydrazide	3232-36-8
770.	Carbonohydrazonic dihydrazide, mononitrate	4000-16-2
771.	1,2-Hydrazinedicarboxylic acid, diethyl ester	4114-28-7
772.	Hydrazinecarboxylic acid, ethyl ester	4114-31-2
773.	1,3-Benzenedisulfonic acid, dihydrazide	4547-70-0
774.	2(1H)-Pyridinone, hydrazone	4930-98-7
775.	Hydrazinecarbothioamide, 2- 2-(hydroxyimino)-1-methylpropylidene	5012-80-6
776.	Carbonohydrazonic dihydrazide, monohydrochloride	5329-29-3
777.	Hydrazinecarboxylic acid, phenylmethyl ester	5331-43-1
778.	2-Naphthalenecarboxylic acid, 3-hydroxy-, hydrazide	5341-58-2
779.	Hydrazinecarbothioamide, *N*-phenyl-	5351-69-9
780.	Hydrazinecarbothioamide, 2-(1,3-benzodioxol-5-ylmethylene)-	5351-85-9
781.	Hydrazine, 1-phenyl-1-(phenylmethyl)-, monohydrochloride	5705-15-7
782.	Hydrazine, cyclohexyl-	6498-34-6
783.	Acetic acid, 2-(4-aminophenyl)hydrazide	6596-74-3
784.	Hydrazine, ethyl-, ethanedioate (1:1)	6629-60-3
785.	Hydrazinecarboxaldehyde, 2-(4-nitrophenyl)-	6632-39-9
786.	Benzenediazonium, 4- (2,6-dichloro-4-nitrophenyl)azo -2,5-di-methoxy-	6709-58-6
787.	L-Tyrosine, hydrazide	7662-51-3
788.	Hydrazinecarboximidamide, mononitrate	10308-82-4
789.	Hydrazinecarbothioamide, *N*-ethyl-	13431-34-0
790.	Hydrazine, (4-chlorophenyl)-, sulfate (2:1)	14581-21-6
791.	Benzenediazonium, 2,5-dichloro-	15470-55-0
792.	Hydrazine, (1-methylethyl)-, monohydrochloride	16726-41-3
793.	Benzoic acid, 2-hydroxy-3,5-dinitro-, (5-nitro-2-furanyl)methylenehydrazide	16915-70-1
794.	Hydrazine, (3,4-dimethoxyphenyl)-, hydrochloride	20329-82-2
795.	1,4-Benzenedicarboxylic acid, monomethyl ester, 2- 4-(methoxycarbonyl)benzoyl hydrazide	24000-79-1
796.	Benzoic acid, 4-hydrazino-, monohydrochloride	24589-77-3
797.	Hydrazine, (1,1-dimethylpropyl)-, monohydrochloride	25544-81-4
798.	2(1H)-Naphthalenone, thiocarbohydrazone	27766-21-8
799.	Hexanedicic acid, bis(2-acetylhydrazide)	34375-39-8
800.	Carbonimidic dihydrazide, hydrochloride	38360-74-6
801.	Hydrazinecarboxaldehyde, 2-(4-methylphenyl)-	38577-24-1
802.	1-Naphthalenesulfonic acid, 6-diazo-5,6-dihydro-5-oxo-, 2-methoxyethyl ester	42372-33-8
803.	Benzenediazonium, 5-chloro-2-(4-chlorophenoxy)-	46813-44-9
804.	Benzoic acid, 2-amino-, (2-hydroxy-1-naphthalenyl)methylene hydrazide	50886-62-9
805.	Propanoic acid, 2,2-dimethyl-, 2- (methylamino)thioxomethyl hydrazide	51672-22-1
806.	Benzoic acid, 2-hydrazino-, monohydrochloride	52356-01-1
807.	Hydrazine, (2-chloro-4,6-dimethylphenyl)-	55034-69-0
808.	2-Naphthalenecarboxylic acid, 2-(2-naphthalenylcarbonyl)hydrazide	56149-12-3
809.	2-Naphthalenecarboxylic acid, 3-methoxy-, 2- (3-methoxy-2-naphthalenyl)carbonyl hydrazide	58698-34-3
810.	Quinoline, 3-hydrazino-, dihydrochloride	61621-35-0
811.	Hydrazine, (2,4,6-trichlorophenyl)-, sulfate	63133-79-9
812.	Acetic acid, 2- 4- 2- 2,4-bis(1,1-dimethylpropyl)phenoxy -5-nitrobenzoyl amino phenyl hydrazide	63134-31-6
813.	Acetic acid, 2- 4-[[5-amino-2-[2,4-bis(1,1-dimethylpropyl)phenoxybenzoyl]amino]phenyl]hydrazide	63134-32-7
814.	Thiourea, *N*-[4-(2-formylhydrazino)phenyl]-N'-phenyl-	63148-78-7
815.	Dodecanedioic acid, bis 2-(2-hydroxybenzoyl)hydrazide	63245-38-5
816.	Hydrazinecarboxaldehyde, 2-(4-aminophenyl)-	63402-26-6

No.	Chemical Name	CAS No.
817.	Benzoic acid, (2-ethylhexylidene)hydrazide	63451-38-7
818.	Benzoic acid, (2-methylpropylidene)hydrazide	63494-84-8
819.	1,4-Benzenedicarboxylic acid, monomethyl ester, 2-(1-oxo-3-phenyl-2-propenyl)hydrazide	64033-96-1
820.	Benzoic acid, 2-hydroxy-, 2-(1-oxo-3-phenyl-2-propenyl)hydrazide	64078-75-7
821.	Methanesulfonamide, *N*-[2-(4-hydrazinophenyl)ethyl]-, sulfate (2:1)	65665-49-6
822.	Hydrazinecarboximidamide, N(or 2)-[(2-hydroxyphenyl)methylene]-	67763-12-6
823.	Dodecanoic acid, 2-(aminothioxomethyl)-1-(1-oxododecyl)hydrazide	68516-83-6
824.	Hydrazine, 1,2-bis(2,4,6-trinitrophenyl)-	68683-32-9
825.	Benzoic acid, 4-(1,1-dimethylethyl)-, (2-hydroxy-1-naphthalenyl)-methylene hydrazide	68758-85-0
826.	Hydrazine, 1,1-dimethyl-2-(phenylmethyl)-, monohydrochloride	68957-34-6
827.	Benzenediazonium, 2,5-dichloro-4-sulfo-, hydroxide, inner salt	69121-21-7
828.	Hydrazine, [4-(phenylsulfonyl)phenyl]-	70714-83-9
829.	1-Naphthalenesulfonic acid, 6-diazo-5,6-dihydro-5-oxo-, 2-(2-methoxyethoxy)ethyl ester	71550-36-2
830.	Diazenecarbothioic acid, [1,1'-biphenyl]-4-yl-, 2-[1,1'-biphenyl]-4-ylhydrazide	73507-47-8

1.3.f *Removals.* No chemicals were removed from the Priority Testing List as a result of recent (within the past year) EPA responses to Committee recommendations. However, the Committee is providing a complete list of 92 chemicals and 18 chemical groups that have been recommended and removed from the Priority Testing List since the ITC's 1st Report in October 1977 (Table 2). Reasons for removing chemicals from the Priority Testing List as well as the reference for the original Committee designation or recommendation are contained in the FR citations listed in Table 2. The Report numbers for the original Committee designation or recommendation are listed in Table 2. Reports have been consistently published every 6 months since October 1977, e.g., the 10th Report was published in May 1982.

TABLE 2.—REMOVALS FROM THE TSCA SECTION 4(E) PRIORITY TESTING LIST

Report No.	Chemical/Group	FR Citation	Publication Date
1	Alkyl epoxides	49 FR 449	January 4,1984
1	Alkyl phthalates	46 FR 53775	October 30,1981
1	Chlorinated benzenes (mono and di-health)	45 FR 48524	July 18, 1980
1	Chlorinated benzenes (mono and di-environmental)	49 FR 1760	January 13,1984
1	Chlorinated paraffins	47 FR 1017	January 8,1982
1	Chloromethane	45 FR 48524	July 18, 1980
1	Cresols	48 FR 31812	July 11, 1983
1	Hexachloro-1,3-butadiene	47 FR 58029	December 29,1982
1	Nitrobenzene	46 FR 30300	June 5, 1981
1	Toluene	47 FR 56391	December 16,1982
1	Xylenes	47 FR 56392	December 16,1982
2	1,1,1-Trichloroethane	46 FR 30300	June 5, 1981
2	Acrylamide (health)	45 FR 48510	July 18, 1980
2	Acrylamide (environmental)	48 FR 725	January 6,1983
2	Aryl phosphates	48 FR 57452	December 29,1983
2	Chlorinated naphthalenes	46 FR 54491	November 2,1981
2	Dichloromethane	46 FR 30300	June 5, 1981
2	Halogenated alkyl epoxides	48 FR 57695	December 30,1983
2	Polychlorinated terphenyls	46 FR 54482	November 2,1981
2	Pyridine	47 FR 58031	December 29,1982
3	1,2-Dichloropropane	49 FR 899	January 6,1984
3	Chlorinated benzenes (tri,tetra and penta-health)	45 FR 48524	July 18, 1980
3	Chlorinated benzenes (tri,tetra and penta-environmental)	49 FR 1760	January 13,1984
3	Glycidols	48 FR 57562	December 30,1983
4	4,4'-Methylenedianiline	48 FR 31806	July 11, 1983
4	Acetonitrile	47 FR 58020	December 29,1982
4	Aniline and bromo-, chloro-or nitroanilines	49 FR 108	January 3,1984
4	Antimony metal	48 FR 717	January 6,1983
4	Antimony sulfide	48 FR 717	January 6,1983
4	Antimony trioxide	48 FR 717	January 6,1983
4	Cyclohexanone	49 FR 136	January 3,1984

TABLE 2.—REMOVALS FROM THE TSCA SECTION 4(E) PRIORITY TESTING LIST—Continued

Report No.	Chemical/Group	FR Citation	Publication Date
4	Hexachlorocyclopentadiene	47 FR 58023	December 29,1982
4	Isophorone	48 FR 727	January 6,1983
4	Mesityl oxide	48 FR 30699	July 5, 1983
4	Methyl ethyl ketone	47 FR 50025	December 29,1982
4	Methyl isobutyl ketone	47 FR 58025	December 29,1982
5	Benzidine-, o-dianisidine and o-tolidine based dyes	46 FR 55004	November 5,1981
5	Hydroquinone	49 FR 438	January 4,1984
5	Quinone	49 FR 456	January 4,1984
6	Phenylenediamines	47 FR 973	January 8,1982
7	Alkyltins	47 FR 5456	February 5,1982
7	Butyl benzyl phthalate	46 FR 53775	October 30,1981
7	Butyl glycolyl butylphthalate	46 FR 54487	November 2,1981
7	Fluoroalkenes	46 FR 53704	October 30,1981
8	2-Chlorotoluene	47 FR 3596	January 26,1982
8	Diethylenetriamine	47 FR 18386	April 29, 1982
8	Hexachloroethane	47 FR 18175	April 28, 1982
9	4-Chlorobenzotrifluoride	47 FR 50555	November 8,1982
9	Chlorendic acid	47 FR 44878	October 12,1982
9	Tris(2-chloroethyl) phosphite	47 FR 49466	November 1,1982
10	1,2,4-Trimethylbenzene	48 FR 23088	May 23, 1983
10	Biphenyl	48 FR 23080	May 23, 1983
10	Ethyltoluene	48 FR 23088	May 23, 1983
10	Formamide	48 FR 23098	May 23, 1983
11	1,3-Dioxolane	48 FR 51839	November 14,1983
11	4-(1,1,3,3-Tetramethylbutyl)phenol	48 FR 51971	November 15,1983
11	Bis(2-ethylhexyl)terephthalate	48 FR 51845	November 14,1983
11	Carbofuran intermediates	50 FR 29761	July 22, 1985
11	Dibutyltin bis(isooctylmaleate)	48 FR 51361	November 8,1983
11	Dibutyltin bis(isooctylmercaptoacetate)	48 FR 51361	November 8,1983
11	Dibutyltin bis(laurelmercaptide)	48 FR 51361	November 8,1983
11	Dibutyltin dilaurate	48 FR 51361	November 8,1983
11	Dimethyltin bis(isooctylmercaptoacetate)	48 FR 51361	November 8,1983
11	Monobutyltin tris(isooctylmercaptoacetate)	48 FR 51361	November 8,1983
11	Monomethyltin tris(isooctylmercaptoacetate)	48 FR 51361	November 8,1983
11	Tris(2-ethylhexyl)trimellitate	48 FR 51824	November 14,1983
12	2-Phenoxyethanol	49 FR 21407	May 21, 1984
12	Calcium naphthenate	49 FR 21411	May 21, 1984
12	Cobalt naphthenate	49 FR 21411	May 21, 1984
12	Lead naphthenate	49 FR 21411	May 21, 1984
12	Methylolurea	49 FR 21371	May 21, 1984
13	1,2,3,4,7,7-Hexachloronorbornadiene	49 FR 45654	November 19,1984
13	Diethyleneglycol butyl etheracetate	49 FR 45606	November 19,1984
13	Ethylene bis(oxyethylene)diacetate	49 FR 45651	November 19,1984
13	Oleylamine	49 FR 45610	November 19,1984
14	1,2-Dibromo-4-(1,2-dibromoethyl)cyclohexane	50 FR 19460	May 8, 1985
14	2-Ethylhexanoic acid	50 FR 20678	May 17, 1985
14	3,4-Dichlorobenzotrifluoride	52 FR 23547	June 23, 1987
14	Bisphenol A	50 FR 20691	May 17, 1985
14	Diisopropylbiphenyl	50 FR 18920	May 3, 1985
14	Isopropylbiphenyl	50 FR 18920	May 3, 1985
15	9,10-Anthraquinone	50 FR 46090	November 6,1985
15	Chloroprene	50 FR 29761	August 26,1985

TABLE 2.—REMOVALS FROM THE TSCA SECTION 4(E) PRIORITY TESTING LIST—Continued

Report No.	Chemical/Group	FR Citation	Publication Date
15	Cumene	50 FR 46104	November 6,1985
15	2-Mercaptobenzothiazole	50 FR 46121	November 6,1985
15	Octamethylcyclotetrasiloxane	50 FR 45123	October 30,1985
15	Pentabromoethylbenzene	50 FR 46785	November 13,1985
15	Sodium *N*-methyl-*N*-oleoyltaurine	50 FR 46178	November 6,1985
16	Methylcyclopentane	51 FR 17854	May 15, 1986
16	Tetrabromobisphenol A	51 FR 17872	May 15, 1986
16	Triethylene glycol monobutylether	51 FR 27883	May 15, 1986
16	Triethylene glycol monoethylether	51 FR 27883	May 15, 1986
16	Triethylene glycol monomethylether	51 FR 27883	May 15, 1986
17	Diisodecyl phenyl phosphite	54 FR 8112	February 24,1989
18	2,6-Di-tert-butylphenol	52 FR 23862	June 25, 1987
18	Cyclohexane	52 FR 19096	May 20, 1987
19	Methylethyl ketoxime	53 FR 35838	September 15,1988
19	Tributylphosphate	52 FR 43346	November 12,1987
19	Disperse blue dye 79 (bromoethoxy substituted)	54 FR 48102	November 21,1989
20	Disperse blue dye (chloroethoxy substituted)	54 FR 48102	November 21,1989
20	Disperse blue dye (chloromethoxy substituted)	54 FR 48102	November 21,1989
20	Disperse blue dye 79:1 (bromomethoxy substituted)	54 FR 48102	November 21,1989
20	Ethylbenzene	53 FR 46262	November 16,1988
20	Isopropanol	53 FR 8633	March 16, 1988
20	Methyl tert-butyl ether	53 FR 10391	March 31, 1988
21	Acid blue 40	53 FR 18196	May 20, 1988
21	Acid blue 45	53 FR 18196	May 20, 1988
21	Acid form of Acid blue 40	53 FR 18196	May 20, 1988
21	Acid form of Acid blue 45	53 FR 18196	May 20, 1988
21	Disperse blue 56	53 FR 18196	May 20, 1988
21	Disperse red 60	53 FR 18196	May 20, 1988
22	1,6-Hexamethylenediisocyanate	54 FR 21240	May 17, 1989
23	Crotonaldehyde	54 FR 47062	November 9,1989

1.4 *The TSCA section 4(e) Priority Testing List.* Section 4(e)(1)(B) of TSCA directs the Committee to: "* * * make such revisions in the [priority] list as it determines to be necessary and * * * transmit them to the Administrator together with the Committee's reasons for the revisions.> Under this authority, the Committee is revising the Priority Testing List by designating 6 chemicals and recommending 3 chemicals and 11 chemical groups. These revisions are listed in Table 1.

The Priority Testing List (Table 3) includes designated, recommended with intent-to-designate and recommended chemicals. Individual chemicals in Priority Testing List chemical groups are listed in Table 1 or the paragraph following Table 1 of this and previous Reports with appropriate notes that minimize ambiguities related to TSCA section 8(a) and 8(d) reporting requirements. Tables 2 (Removals from the Priority Testing List) and 3 (the Priority Testing List) list the 123 chemicals and 38 chemical groups that have been recommended or designated for testing since the Committee's 1st Report in October 1977. Table 3 reads as follows:

TABLE 3.—THE TSCA SECTION 4(E) PRIORITY TESTING LIST

Date	Entry	Action
May 1988	Ethoxylated quaternary ammonium compounds	Recommended
May 1988	Imidazolium quaternary ammonium compounds	Recommended
November 1988	Tetrakis(2-chloroethyl)ethylenediphosphate	Recommended with intent-to-designate
November 1988	Tris(1,3-dichloro-2-propyl)phosphate	Recommended with intent-to-designate
November 1988	Tris(1-chloro-2-propyl) phosphate	Recommended with intent-to-designate
November 1988	Tris(2-chloro-1-propyl) phosphate	Recommended with intent-to-designate

TABLE 3.—THE TSCA SECTION 4(E) PRIORITY TESTING LIST—Continued

Date	Entry	Action
November 1988	Tris(2-chloroethyl)-phosphate	Recommended with intent-to-designate
November 1988	Butyraldehyde	Recommended
November 1988	1,2-Bis(2,4,6-tribromophenoxy)-ethane	Designated
November 1988	Decabromodiphenyl ether	Designated
November 1988	Hexabromocyclododecane	Designated
November 1988	Octabromodiphenyl ether	Designated
November 1988	Pentabromodiphenyl ether	Designated
November 1988	Brominated flame retardants	Recommended
May 1990	Isocyanates	Recommended with intent-to-designte
May 1990	Brominated flame retardants	Recommended
May 1990	Alkyl phosphates	Recommended
November 1990	Vinylcyclohexene	Designated
November 1990	Sodium cyanide	Designated
November 1990	Acrylic acid	Designated
November 1990	Acetophenone	Designated
November 1990	Phenol	Designated
November 1990	*N,N*-Dimethylaniline	Designated
November 1990	Ethylacetate	Designated
November 1990	2,6-Dimethylphenol	Designated
November 1990	Aldehydes	Recommended with intent-to-designate
November 1990	2,4-Dinitrophenol	Recommended
November 1990	3,4-Dimethylphenol	Recommended
November 1990	*N*-phenyl-1-naphthylamine	Recommended
November 1990	Sulfones	Recommended
November 1990	Substantially produced chemicals in need of subchronic tests	Recommended
May 1991	Acetone	Designated
May 1991	*n*-Butanol	Designated
May 1991	Isobutanol	Designated
May 1991	Di-(2-ethylhexyl)adipate	Designated
May 1991	Dimethyl terephthalate	Designated
May 1991	Thiophenol	Designated
May 1991	m-Dinitrobenzene	Recommended
May 1991	Allyl alcohol	Recommended
May 1991	2,4-Dichlorophenol	Recommended
May 1991	Alkynes	Recommended
May 1991	Nitroalcohols	Recommended
May 1991	Phosphoniums	Recommended
May 1991	Hydrazines	Recommended
May 1991	Oxiranes	Recommended
May 1991	Alkoxysilanes	Recommended
May 1991	Aldehyde hydrates	Recommended
May 1991	Propylene glycol ethers and esters	Recommended
May 1991	Methyl ethylene glycol ethers	Recommended
May 1991	Isothiocyanates	Recommended
May 1991	Cyanoacrylates	Recommended

Chapter 2--Recommendations of the Committee

2.1 *Chemicals recommended for priority consideration by the EPA Administrator.* As provided by section 4(e)(1)(B) of TSCA, the Committee is revising the Priority Testing List by designating six chemicals and recommending three chemicals and eleven chemical groups (see Table 1). The recommendation of these chemicals is made after considering the factors identified in section 4(e)(1)(A) and other relevant information, such as the chemical testing information deficiencies of Member Agencies.

2.2 *Designated chemicals*—2.2.a. *IRIS chemicals— Introduction.* The Committee reviewed a subset of chemicals that are listed on the EPA's Integrated Risk Information System

(IRIS). IRIS is an electronic database, prepared and maintained by EPA, that contains health risk and EPA regulatory information on chemical substances. IRIS was developed for EPA staff in response to a growing demand for consistent risk information on chemical substances for use in decisionmaking and regulatory activities. Although IRIS was designed for EPA staff, it is also accessible to state and local environmental health agencies, private citizens, libraries and organizations through Dialcom, Inc.'s Electronic Mail telecommunications system. For more information contact IRIS User Support in EPA's Environmental Criteria and Assessment Office, Cincinnati, Ohio (513/569–7254 or FTS 684–7254).

The EPA's Reference Concentration (RfC)/Reference Dose (RfD) Workgroup asked the ITC to designate or recommend inhalation(RfC) or oral(RfD) testing of IRIS chemicals to provide data to develop or improve RfC or RfD values. An RfC or RfD value is an estimate of how much of a chemical people can inhale or ingest daily without experiencing deleterious effects during part or all of their lifetime.

The Committee-activated comprehensive networking and information exchange processes were used to facilitate communication and coordination of chemical testing. The Committee considered unpublished studies in Member Agency's files and past, present and future Member Agency activities. The Committee discussed studies conducted by NTP and EPA's Health Effects Research Laboratory and Environmental Research Laboratories, studies sponsored by NIOSH, studies used by OSHA and CPSC, studies submitted under TSCA as well as studies in FDA's files. The Committee learned about ongoing international activities, about ATSDR's data research needs, about EPA's Toxics Release Inventory (TRI) information, about Health Hazard Evaluations and Hazard Evaluation and Technical Assistance Reports, walk-through surveys, etc., conducted by NIOSH, uses considered by the FDA, activities under other statutes, and so on. As part of the Committee's efforts to comprehensively consider testing information deficiencies, the Committee reviewed available information on physical/chemical properties and persistence as well as ecological effects and identified a number of chemical fate and aquatic toxicity testing information deficiencies. EPA's Neurobehavioral Toxicology Branch also reviewed these chemicals for potential neurotoxicology concerns and the Committee identified neurotoxicity testing deficiencies.

For 36 IRIS chemicals, the Committee has completed partial (21) or comprehensive (15) assessments of available health effects, chemical fate and ecological effects information. As a result of these assessments, the Committee designated six chemicals and recommended three chemicals for testing (see Table 1). Three chemicals were recommended, because the Committee wants to review the TSCA section 8(a) and 8(d) information and any use exposure and release or physical chemical property information that is voluntarily submitted, before deciding whether to designate these chemicals for testing. The Committee has considered, but is not recommending health effects or chemical fate testing at this time for four IRIS chemicals (aldehydes - chloral, furfural, benzaldehyde and acrolein) that were recommended for ecological effects testing in the 27th Report, because it wants to review the submitted TSCA section 8(d) studies to avoid duplicative and unnecessary testing and to review the TSCA section 8(a) submitted information as well as any use exposure and release or physical chemical property information that is voluntarily submitted, before deciding whether to designate these chemicals for testing. The Committee is returning 2 chemicals to the EPA because the Committee's review identified health effects data that appear to be sufficient to reduce the uncertainty associated with risk assessments (cyclohexane, CAS No. 110–82–7 and chloroprene, CAS No. 126–99–8). Both of these chemicals were previously recommended for testing by the ITC; EPA's implementation of the Committee's testing recommendations and testing by NTP provided sufficient health effects data. None of the IRIS chemicals that were designated or recommended for testing in this 28th Report were listed in Title III of the 1990 amendments of the Clean Air Act. The Committee is continuing to review information on numerous IRIS chemicals, including 21 that are listed in the Clean Air Act. One of these 21 chemicals, phosgene (CAS No. 75–44–5) was deferred in this Report (see Chapter 1.3.e).

During the review of dimethyl terephthalate, the Committee evaluated the testing information deficiencies associated with terephthalic acid (CAS No. 100–21–0), because there are several facilities that have capabilities of producing over a billion pounds of dimethyl terephthalate or terephthalic acid per annum. The Committee reviewed exposure information, the December 10, 1990 Notice of Final Rulemaking delisting terephthalic acid from the Toxic Release Inventory (TRI), the documentation supporting that delisting, the available data that EPA cited in their recently proposed developmental toxicity and reproductive effects testing rule, as well as a considerable volume of publicly-available information on chemical fate, ecological effects and health effects of terephthalic acid. Based on this review the Committee is not recommending terephthalic acid for chemical fate, ecological effects or health effects testing at this time. The Committee shares EPA's concern about the potential of terephthalic acid to cause adverse reproductive effects and is soliciting voluntary submission of studies related to terephthalic acid's developmental toxicity potential, because there were no publicly-available developmental toxicity studies.

Summary of recommended studies. Recommended studies are summarized in Table 1.

Acetone (CAS No. 67–64–1).

Physical and Chemical Information

The Committee has information on the measured physical chemical properties of acetone, including melting point (-94.7 °C; Ref. 12, Riddick 1986), boiling point (56.07 °C; Ref. 12, Riddick 1986), log octanol/water partition coefficient (-0.24; Ref. 6, Hansch and Leo 1985), water solubility (miscible; Ref. 12, Riddick 1986), vapor pressure (231.5 mm Hg @25 °C; Ref. 2, Boublik et al. 1984), and Henry's Law constant (3.88E–5 atm-m3/mole @25 °C; Ref. 15, Snider and Dawson 1985).

Rationale for Recommendation

A. *Exposure Information—Production/use/disposal/exposure/release.* The Committee reviewed available exposure information including the data EPA cited in their recently proposed neurotoxicity testing rule (Ref. 21, U.S. EPA 1991). In addition, the Committee has reviewed other supporting information listed below. In 1989, 1.145 billion kilograms of acetone were produced at 11 facilities in the United States (Ref. 22, USITC 1990). There were 13 facilities that manufactured acetone in the U.S. in 1990 (Ref. 16, SRI 1990). Acetone has the following uses: in the manufacture of methyl methacrylate, methacrylic acid and higher methacrylates 40 percent; solvent uses 20 percent; Bisphenol-A 13

percent; methyl isobutyl ketone and methyl isobutyl carbinol 10 percent; drug and pharmaceutical applications 6 percent; miscellaneous chemical uses 5 percent; exports 6 percent (Ref. 3, CMR 1990). Solvent and miscellaneous uses of acetone include paint, varnish and lacquer solvent; cellulose acetate, especially as spinning solvent; to clean and dry parts of precision equipment; solvent for potassium iodide and permanganate; delusterant for cellulose acetate fibers; specification testing of vulcanized rubber products (Ref. 13, Sax and Lewis 1987).

B.*Evidence for exposure—Human exposure.* The Committee reviewed available human exposure information including the use of acetone in a variety of commercial and consumer applications that may lead to worker and consumer exposure, which EPA cited in their recently proposed neurotoxicity testing rule (Ref. 21, U.S. EPA 1991). OSHA's proposed and final rule Permissible Exposure Limit (PEL) of 750 ppm and STEL of 1,000 ppm for acetone was established from the NIOSH recommended limit, which was based on several industrial and human studies indicating irritation and central nervous system effects resulting from exposure to acetone at concentrations below 1,000 ppm (Ref. 20, U.S. EPA 1989). The National Occupational Exposure Survey (NOES) conducted during 1981–83 by NIOSH reported that 1,510,107 workers (466,647 females) were potentially exposed to acetone. Of these workers, 69 percent were potentially exposed during the use of trade name products containing acetone (Ref. 10, NIOSH 1989). In a pilot study of personal air samples of persons living in urban New Jersey, acetone was qualitatively detected in 8 of 8 samples indicating possible human exposure in ambient urban air (Ref. 23, Wallace et al. 1984).

C. *Environmental exposure.* The Committee reviewed available environmental exposure information including the data that EPA cited in their recently proposed neurotoxicity testing rule (Ref. 21, U.S. EPA 1991). According to TRI, 191,111,104 lbs of acetone were released to air, 2,030,623 lbs were released to water, 293,397 lbs were released to land, 14,528,002 lbs were released to publicly owned treatment works (POTWs) in 1987 (Ref. 18, TRI 1990). Acetone was found in 10 drinking water supplies in 10 different cities in the United States in 1974–1975; of these drinking water supplies, it was detected at a concentration of 1.0 ppb in one supply (Ref. 19, U.S. EPA 1975). It was found at concentrations ranging from 1-4 ppb in 3 of 8 surface water sampling sites in the Lake Michigan basin (Ref. 5, Ewing et al. 1977; Ref. 7, Konasewich et al. 1978).

According to the 1987 update of the National Ambient Volatile Organic Compounds Data Base, which includes data from 1970–1980, acetone may be present at low concentrations in ambient air at a daily average concentration of 6.93 ppbv and a median concentration of 0.93 ppbv (Ref. 14, Shah and Heyerdahl 1988). Acetone has been detected at an average concentration of 1147 ppb in 3 test runs in municipal wastewater and 29 ppb in POTW secondary effluent (Ref. 1, Bhattacharya et al. 1990). Acetone has been detected in smoke from burning wood, automobile exhaust, and particle board (Ref. 9, Lipari et al. 1984; Ref. 17, Tichenor and Mason 1988; Ref. 24, Westerholm et al. 1988).

I. Chemical Fate Information

The need for chemical fate testing of acetone was considered by the Committee and is not recommended at this time.

II. Health Effects Information

EPA's RfC/RfD Workgroup requested that the ITC review health effects testing for acetone because there is a low confidence in the RfD value and no RfC value. The Committee reviewed recent publicly-available health effects studies and recommended testing based on insufficient studies that could increase the confidence in the RfD value.

The Committee reviewed available reproductive effects data. A mild toxic effect on spermatogenesis (depressed caudal and epididymal weights, decreased sperm motility, and increased incidence of malformed sperm) was seen in male mice administered 50,000 ppm in drinking water for 13 weeks (Ref. 11, NTP 1990). In a reproductive effects screening test, no maternal toxicity was noted in pregnant female mice administered 3500 mg/kg/day of acetone by gavage on gestation days 6 through 15, but the treated groups showed decreased reproductive index, increased gestation length, reduced birth weights, decreased neonatal survival, and increased neonatal weight (Ref. 4, EHRT 1989). Available studies indicate that acetone is a potential reproductive toxicant, but are insufficient to characterize the reproductive effects of acetone because only one dose was tested and only one generation was studied.

The Committee reviewed available neurotoxicity data including evidence of depressed neurological function resulting from inhalation exposure to humans, rats and mice that EPA cited in their recently proposed neurotoxicity testing rule (Ref. 21, U.S. EPA 1991). In addition to studies reviewed by EPA, the Committee reviewed a study in which rats administered 5% (w/w) acetone in drinking water for 6 weeks showed decreased nerve conduction velocity during week 6, but not earlier in the treatment period (Ref. 8, Ladefoged et al. 1989). Available studies indicate that acetone is a potential neurotoxicant, are insufficient to comprehensively characterize the neurotoxic effects because tests were conducted only with males or one test dose, and limited endpoints were examined.

The Committee recommends reproductive effects testing because there are potentially substantial exposures, and because there are insufficient data to reasonably determine or predict these effects of acetone. The Committee is not recommending neurotoxicity testing because this testing recommendation was implemented when EPA promulgated their recently proposed neurotoxicity testing rule (Ref. 21, U.S. EPA 1991).

III. Ecological Effects Information

The need for ecological effects testing of acetone was considered by the Committee and is not recommended at this time.

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n-Butanol (CAS No. 71–36–3).

Physical and Chemical Information

The Committee has information on the measured physical chemical properties of *n*-butanol, including melting point (-89.5 C; Ref. 28, Weast 1985), boiling point (117.2 °C; Ref. 28, Weast 1985), log octanol/water partition coefficient (0.88; Ref. 10, Hansch and Leo 1985), water solubility (74,000 mg/L @25 °C; Ref. 30, Yalkowsky 1987), vapor pressure (7.054 mm Hg @25 °C; Ref. 7, Daubert and Danner 1985), and Henry's Law constant (5.57E-6 atm-m^3/mole @25 °C; Ref. 15, Mackay and Yeun 1983).

Rationale for Recommendation

A. *Exposure Information—Production/use/disposal/exposure/release.* The Committee reviewed available exposure information including the data EPA cited in their recently proposed neurotoxicity testing rule (Ref. 25, U.S. EPA 1991). In addition, the Committee has reviewed other supporting information listed below. In 1989, 7.941 billion kilograms of *n*-butanol were produced at 8 facilities in the United States (Ref. 26, USITC 1990). There were 6 facilities that manufactured *n*-butanol in the U.S. in 1990 (Ref. 21, SRI 1990). *n*-Butanol has the following uses: butyl acrylate and methacrylate 30 percent; glycol ethers 25 percent; exports 16 percent; direct solvent use 11 percent; butyl acetate 10 percent; plasticizers 4 percent; amino resins 1 percent; butylamines 1 percent; miscellaneous 2 percent (Ref. 6, CMR 1990). Solvent and miscellaneous uses of *n*-butanol include solvent for resins and coatings, dyeing assistant, hydraulic fluids, detergent formulations, and dehydrating agent (by azeotropic distillation) (Ref. 19, Sax and Lewis 1987).

B. *Evidence for exposure—Human exposure.* The Committee reviewed available human exposure information including the use of *n*-butanol in a variety of commercial and consumer applications that may lead to worker and consumer exposure, which EPA cited in their recently proposed neurotoxicity testing rule (Ref. 25, U.S. EPA 1991). OSHA's proposed and final rule PEL is a 50-ppm ceiling, with a skin notation because data in beagle dogs suggests that dermal contact with *n*-butanol may result in a combined dose rather than that obtained by inhalation alone (Ref. 24, U.S. EPA 1989). The NOES conducted during 1981–83 by NIOSH reported that 794,284 workers (115,385 females) were potentially exposed to *n*-butanol. Of these workers, 96 percent were potentially exposed during the use of trade name products containing this compound (Ref. 17, NIOSH 1989). In a pilot study of human mother's milk taken from 4 urban areas, *n*-butanol was qualitatively detected in 3 of 12 samples (Ref. 18, Pellizzari et al. 1982). This compound was detected in 1 of 12 homes tested in Canada in November-December, 1986 at a concentration of 37 $\mu g/m^3$; however, it was not detected in air outside the homes (Ref. 5, Chan et al. 1990). *n*-Butanol is contained in several foods which may lead to human exposure. For example, *n*-butanol has been qualitatively detected in cheese, fried bacon, and Kogyoku apples (Ref. 8, Dumont and Adda 1978; Ref. 11, Ho et al. 1983; Ref. 29, Yajima et al. 1984). It has been detected at concentrations ranging from 32–145 ppb in dried beans and at mean concentrations of 53 ppb, 89 ppb, and 32 ppb from dried beans,

split peas, and lentils, respectively (Ref. 13, Lovegren et al. 1979).

C. *Environmental exposure.* The Committee reviewed available environmental exposure information including the data that EPA cited in their recently proposed neurotoxicity testing rule (Ref. 25, U.S. EPA 1991). According to TRI, 33,623,834 lbs of *n*-butanol were released to air, 211,200 lbs were released to water, 485,530 lbs were released to land, 2,612,252 lbs were released to POTWs in 1987 (Ref. 22, TRI 1990). In 1988, TRI indicates that 36,145,132 lbs were released to air, 127,610 lbs were released to water, 174,513 lbs were released to land, and 4,503,465 lbs were released to POTWs (Ref. 22, TRI 1990). *n*-Butanol has been qualitatively detected in drinking water from 5 of 15 samples from 5 of 7 cities (Ref. 14, Lucas et al. 1984) and one sample of drinking water of persons living in urban New Jersey in July-December, 1980 (Ref. 27, Wallace et al. 1984). According to the 1987 update of the National Ambient Volatile Organic Compounds Data Base, which includes data from 1970–1980, *n*-butanol may be present at low concentrations in ambient air at a daily average concentration of 0.545 ppbv, and a median concentration of 0.074 ppbv (Ref. 20, Shah and Heyerdahl 1988). *n*-Butanol was detected in a river highly polluted from leather industries utilizing steam distillation separation and vacuum distillation at concentrations of 87 ppb and 318 ppb, respectively (Ref. 31, Yasuhara et al. 1981). It has been detected in air at a Swiss water treatment facility (Ref. 9, Hangartner 1979). *n*-Butanol has been found in industrial effluent from inorganic chemical manufacture, a petrochemical industry, and pulp mill effluent (Ref. 2, Bursey and Pellizzari 1982; Ref. 4, Carlberg et al. 1986; Ref. 12, Keith 1974).

I. Chemical Fate Information

The need for chemical fate testing of *n*-butanol was considered by the Committee and is not recommended at this time.

II. Health Effects Information

EPA's RfC/RfD Workgroup requested that the ITC review health effects testing for *n*-butanol because there is a low confidence in the RfD value and no RfC value. The Committee reviewed recent publicly-available health effects studies and recommended testing based on insufficient studies that could increase the confidence in the RfD value.

The Committee reviewed available reproductive effects data. *n*-Butanol has been shown to reduce fertility of male rats (2 of 17 matings produced litters) exposed by inhalation to 7000 ppm for 6 weeks (Ref. 1, Brightwell et al. 1988), and exposure for 6 hours/day for 7 days to 50 ppm led to decreased levels of testosterone (Ref. 3, Cameron et al. 1985). Similar exposure to 6000 ppm had no observable effect on fertility (Ref. 16, Nelson et al. 1989). Available studies indicate that *n*-butanol is a potential reproductive system toxicant, but are inadequate to comprehensively characterize the reproductive effects because only males have been tested, and 2-generation studies are lacking.

The Committee reviewed available neurotoxicity data including evidence of depressed neurological function resulting from oral exposure to rats and mice that EPA cited in their recently proposed neurotoxicity testing rule (Ref. 25, U.S. EPA 1991). In addition to studies reviewed by EPA, the Committee reviewed other data (summarized below) that support the need to conduct neurotoxicity testing. In a general toxicity study, cage-side observations included treatment-related ataxia and hypoactivity during the last 6 weeks of treatment among rats administered 500 mg/kg/day *n*-butanol for 13 weeks by gavage (Ref. 23, U.S. EPA 1986). When male rats were exposed by inhalation to 6000 ppm, differences were seen among their offspring in a few behavioral (4 out of 78) and neurochemical (4 out of 64) measures, but no discernable pattern of effects was apparent (Ref. 16, Nelson et al. 1989). Available studies indicate that *n*-butanol has neurotoxic potential, but are inadequate to comprehensively characterize the neurotoxic effects because only males were tested or exposure durations were insufficient, and limited endpoints were examined.

The Committee recommends reproductive effects testing because there are potentially substantial exposures, and because there are insufficient data to reasonably determine or predict these effects of *n*-butanol on these systems. The Committee is not recommending neurotoxicity testing because this testing recommendation was implemented when EPA promulgated their recently proposed neurotoxicity testing rule (Ref. 21, U.S. EPA 1991).

III. Ecological Effects Information

The need for ecological effects testing of *n*-butanol was considered by the Committee and is not recommended at this time.

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Isobutanol (CAS No. 78–83–1).

Physical and Chemical Information

The Committee has information on the measured physical chemical properties of isobutanol, including melting point (-108 °C; Ref. 15 Riddick 1986), boiling point (107.886 °C; Ref. 15 Riddick 1986), log octanol/water partition coefficient (0.76; Ref. 9, Hansch and Leo 1985), water solubility (85,000 mg/L @25 °C; Ref. 25, Valvani et al. 1981), vapor pressure (10.45 mm Hg @25 °C; Ref. 3, Daubert and Danner 1985), and Henry's Law constant (1.18 X 10E-5 atm-m^3/mole @25 °C; Ref. 10, Hine and Mookerjee 1975).

Rationale for Recommendation

A. *Exposure Information—Production/use/disposal/exposure/release.* The Committee reviewed available exposure information including the data EPA cited in their recently proposed neurotoxicity testing rule (Ref. 23, U.S. EPA 1991). The Committee has reviewed other supporting information listed below. In 1989, 61.443 million kilograms of isobutanol were produced at 6 facilities in the United States (Ref. 24, USITC 1990). There were 5 facilities that manufactured isobutanol in the U.S. in 1990 (Ref. 18, SRI 1990). Isobutanol is used in organic synthesis, as a latent solvent in paints and lacquers, as an intermediate for amino coating resins, as a substitute for *n*-butanol, in paint removers, fluorometric determinations, liquid chromatography and fruit flavor concentrates (Ref. 17, Sax and Lewis 1987).

B. *Evidence for exposure—Human exposure.* The Committee reviewed available human exposure information including the use of isobutanol in a variety of commercial and consumer applications that may lead to worker and consumer exposure, which EPA cited in their recently proposed neurotoxicity testing rule (Ref. 23, U.S. EPA 1991). OSHA's revised final rule PEL is a 50 ppm 8–hour TWA (formerly a PEL of 100 ppm 8–hour TWA) for isobutanol which is expected to reduce the risk of skin irritation associated with exposure to concentrations above the revised PEL (Ref. 22, U.S. EPA 1989). The NOES survey conducted during 1981–83 by NIOSH reported that 192,949 workers (28,581 females) were potentially exposed to isobutanol. Of these workers, 95 percent were potentially exposed during the use of trade name products containing this compound (Ref. 14, NIOSH 1989). Isobutanol is contained in several foods which may lead to human exposure. For example, isobutanol has been qualitatively detected in cheese, Kogyoku apples, headspace volatiles of tree-ripened peaches, and volatile compounds from fried chicken (Ref. 5, Dumont and Adda 1978; Ref. 19, Takeoka et al. 1988; Ref. 22, Tang et al. 1983; Ref. 26, Yajima et al. 1984). It has been detected at concentrations ranging from 22–300 ppb in dried beans and at mean concentrations of 72 ppb, 140 ppb, and 100 ppb from dried beans, split peas, and lentils, respectively (Ref. 13, Lovegren et al. 1979).

C. *Environmental exposure.* The Committee reviewed available environmental exposure information including the data that EPA cited in their recently proposed neurotoxicity testing rule (Ref. 23, U.S. EPA 1991). Isobutanol was found in air with similar composition to urban and suburban air from the southern Black Forest, W. Germany in 1983–1984 (Ref. 11, Juttner 1986) and it was found in indoor air from 4 of 6 homes in Northern Italy at concentrations ranging from 1,300–20,000 ppb (Ref. 4, Debortoli et al. 1986). Isobutanol was detected in a river highly polluted from leather industries utilizing steam distillation separation and vacuum distillation at concentrations of 142 ppb and 685 ppb, respectively (Ref. 27, Yasuhara et al. 1981). It was detected in leachate from a 1–year old experimental landfill at a concentration of 300 ppm (Ref. 1, Burrows and Rowe 1975), air at a Swiss water treatment plant (Ref. 8, Hangartner 1979) and air inside grain fermentation units in a whiskey distillery (Ref. 2, Carter and Linsky 1974).

I. Chemical Fate Information

The need for chemical fate testing of isobutanol was considered by the Committee and is not recommended at this time.

II. Health Effects Information

EPA's RfC/RfD Workgroup requested that the ITC review health effects testing for isobutanol because there is a low confidence in the RfD value and no RfC value. The Committee reviewed recent publicly-available health effects studies and recommended testing based on insufficient studies that could increase the confidence in the RfD value.

The Committee reviewed available pharmacokinetic data which are limited to oral studies with small or unreported numbers of rabbits administered isobutanol by gavage (Ref. 12, Kamil et al. 1953; Ref. 16, Saito 1975). Available studies are insufficient to characterize the pharmacokinetics of isobutanol because only small numbers of animals

were tested, and pharmacokinetic endpoints have not been quantified.

No studies were located in the publicly-available literature regarding reproductive or developmental effects of isobutanol.

No neurotoxicological studies of isobutanol with humans or animals were located by the EPA, as indicated in their recently proposed neurotoxicity testing rule (Ref. 23, U.S. EPA 1991). However, the Committee reviewed a general toxicity study in which cage-side observations included a low incidence of hypoactivity and ataxia among groups of rats exposed to 1000 mg/kg/day for 13 weeks (Ref. 21, U.S.EPA 1986) This study indicates that isobutanol is a potential neurotoxicant, but is insufficient to comprehensively characterize its neurotoxic effects because neurologic endpoints were examined.

The Committee reviewed available oncogenicity data. Oral administration of isobutanol led to carcinomas and myeloid leukemia in 3/19 rats, and subcutaneous injection led to malignancies in 8/24 rats (carcinomas, sarcomas, and one mesothelioma) (Ref. 6, Gibel et al. 1974; Ref. 7, Gibel et al. 1975). These studies indicate that isobutanol is a potential carcinogen, but are inadequate to characterize the oncogenic effects because of the low numbers of test animals exposed to only one dose level for each route of exposure, and because of uncertainties as to whether both sexes were tested.

The Committee recommends pharmacokinetics testing by oral and inhalation routes of exposure, reproductive effects, developmental toxicity and oncogenicity testing because there are potentially substantial exposures, and because there are insufficient data to reasonably determine or predict these effects of isobutanol. The Committee is not recommending neurotoxicity testing because this testing recommendation was implemented when EPA promulgated their recently proposed neurotoxicity testing rule (Ref. 21, U.S. EPA 1991).

III. Ecological Effects Information

The need for ecological effects testing of isobutanol was considered by the Committee and is not recommended at this time.

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Di-(2-ethylhexyl) adipate (CAS No. 103–23–1).

Physical and Chemical Information

The Committee has limited information on measured physical chemical properties of di-(2-ethylhexyl) adipate including, melting point (-67.8 °C; Ref. 16, Weast et al. 1985) and boiling point (417 °C; Ref. 9, Sax and Lewis 1987).

Rationale for Recommendation

A. *Exposure Information—Production/use/disposal/exposure/release.* The Committee reviewed available exposure information. In 1989, 48.9 million pounds of di-(2-ethylhexyl) adipate were produced at 12 facilities in the United States (Ref. 15, USITC 1990). There were 11 facilities that manufactured di-(2-ethylhexyl) adipate in the U.S. in 1990 (Ref. 13, SRI 1990). Di-(2-ethyl-hexyl) adipate is used as a plasticizer, commonly blended with general purpose plasticizers, such as DOP and DIOP in processing polyvinyl

and other polymers, as a solvent, and in aircraft lubes (Ref. 9, Sax and Lewis 1987).

B. *Evidence for exposure—Human exposure.* The Committee reviewed available human exposure information including the use of di-(2-ethylhexyl) adipate in commercial and consumer applications that may lead to worker and consumer exposure. The NOES conducted during 1981-83 by NIOSH reported that 8,162 workers (2,618 females) were potentially exposed to di-(2-ethylhexyl) adipate. Of these workers, 65 percent were potentially exposed during the use of trade name products containing this compound (Ref. 7, NIOSH 1989). An OSHA PEL does not exist for di-(2-ethylhexyl) adipate. The migration of di-(2-ethylhexyl) adipate from PVC cling-film plastic rap was measured when this compound was detected at concentrations of 41 ppm, 246 ppm, 226 ppm, and 362 ppm in a sandwich stored at 5 °C for 24 hr, cheese stored at 5 °C for 5 days, cake stored at 5 °C for 5 days, and in a microwaved dicuit, respectively (Ref. 3, Gilbert et al. 1988). Di-(2-ethylhexyl) adipate has been detected in drinking water supplies. For example, it was detected a New Orleans drinking water supply at a concentration 0.10 ppb (Ref. 6, Keith et al. 1976) and in finished drinking water from a water treatment plant at a concentration of 0.002 ppb (Ref. 4, Hites 1979).

C. *Environmental exposure.* The Committee reviewed available environmental exposure information. According to TRI, 111,953 lbs of di-(2-ethylhexyl) adipate were released to air, 4,784 lbs were released to water, 500 lbs were released to land, 35,876 lbs were released to POTWs in 1987 (Ref. 14, TRI 1990). In 1988, TRI indicates that 73,117 lbs were released to air, 10,290 lbs were released to water, 1,200 lbs were released to land, and 25,569 lbs were released POTWs (Ref. 14, TRI 1990). Di-(2-ethylhexyl) adipate has been qualitatively detected in fly ash from coal and refuse combustion (Ref. 5, Junk and Ford 1980). Di-(2-ethylhexyl) adipate has been found in Delaware river water in the vicinity of Philadelphia, PA at concentrations ranging from 0.02–0.3 ppb (Ref. 4, Hites 1979; Ref. 10, Sheldon and Hites 1978; Ref. 11, Sheldon and Hites 1979). This compound has been detected in particulate matter in indoor air from an office building at a concentration of 2 ng/m^3 (Ref. 17, Weschler and Sheilds 1986). Di-(2-ethylhexyl) adipate has been detected at concentrations of 2,000 ppb in effluent from one chemical plant, 90 ppb in effluent from several industries, and 10 ppb in effluent from a sewage treatment plant receiving the above effluents (Ref. 4, Hites 1979).

I. Chemical Fate Information

Available data on biodegradation indicate that this compound has the potential to biodegrade under aerobic conditions (Ref. 8, Saeger et al. 1976). These experiments were performed at concentrations exceeding di-(2-ethylhexyl) adipate's estimated water solubility. The rate and importance of the biodegradation of di-(2-ethylhexyl) adipate under environmental conditions cannot be ascertained. As a result of its release to aquatic systems and its ikelihood to adsorb to sediment, the Committee recommends di-(2-ethylhexyl) adipate for sediment and river die-away biodegradation studies because there are insufficient data to reasonably determine or predict its persistence in the environment. The Committee also recommends physical and chemical property testing because there are insufficient data to reasonably determine or predict the physical and chemical properties of di-(2-ethylhexyl) adipate.

II. Health Effects Information

EPA's RfC/RfD Workgroup requested that the ITC review health effects testing for di-(2-ethylhexyl) adipate because there is a low confidence in the RfD value and no RfC value. The Committee reviewed recent publicly-available health effects studies and recommended testing based on insufficient studies that could increase the confidence in the RfD value.

No studies were located in the available literature regarding reproductive effects of di-(2-ethylhexyl) adipate. The Committee reviewed developmental toxicity data, which is limited to one study with pregnant rats that were administered the test substance at doses up to 9.2 g/kg by intraperitoneal injection on gestation days 5, 10, and 15 (Ref. 12, Singh et al. 1973). Reduced fetal weight was noted in the 4.5 and 9.0 g/kg groups. This study indicates that di-(2-ethylhexyl) adipate is a potential developmental toxicant, but the data are inadequate to characterize its developmental effects because tests involving natural routes of exposure are lacking.

The Committee reviewed available neurotoxicity data. Rats treated intragastrically with up to 6 g/kg/day for 6 months showed impaired motor function (Ref. 1, Andreeva 1972). This study indicates that di-(2-ethylhexyl)adipate is a potential neurotoxicant, but the data are inadequate to characterize its neurotoxic effects because the number and sex of test animals is unknown, and only limited neurologic endpoints were examined.

The Committee recommends reproductive effects, developmental toxicity, and neurotoxicity testing because there are potentially substantial exposures and there are insufficient data to reasonably determine or predict these effects of di-(2-ethylhexyl)adipate.

III. Ecological Effects Information

The Committee has reviewed available ecological effects data. Limited acute toxicity tests have been conducted with 3 species of fish (Ref. 2, Felder et al. 1986). Available studies are insufficient to characterize the ecological effects of di-(2-ethylhexyl)adipate because aquatic invertebrate chronic toxicity tests did not report results of any reproductive effects testing and there are no fish chronic toxicity studies.

The Committee recommends aquatic invertebrate and fish chronic toxicity testing because there are insufficient data to reasonably determine or predict ecological effects and there are potentially substantial environmental releases.

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Thiophenol (CAS No. 108–98–5).

Physical and Chemical Information

The Committee has information on the measured physical chemical properties of thiophenol including, melting point (-14.8 °C; Ref. 14, Weast et al. 1985), boiling point (168.7 °C; Ref. 14, Weast et al. 1985), log octanol/water partition coefficient (2.52; Ref. 5, Hansch and Leo 1985), water solubility (836 mg/L @25 °C; Ref. 6, Hine and Mookerjee 1975), vapor pressure (1.93 mm Hg @25 °C; Ref. 3, Chao et al. 1983), and dissociation constant (6.615; Ref. 11, Serjeant and Dempsey 1979).

Rationale for Recommendation

A. *Exposure Information—Production/use/disposal/exposure/release*. The Committee reviewed available exposure information. In 1977, between 2 and 20 million pounds of thiophenol were produced at 3 facilities in the United States (Ref. 13, TSCAPP 1991). There was one facility that manufactured thiophenol in the U.S. in 1990 (Ref. 12, SRI 1990). Information on current production volumes is CBI, but production is substantial. Thiophenol is used as a chemical intermediate for pesticides, pharmaceuticals, dyestuffs, hydraulic fluids, and other compounds (Ref. 4, Chemcyclopedia 91 1990).

B. *Evidence for exposure—Human exposure*. The Committee reviewed available human exposure information including the use of thiophenol in a variety of commercial and consumer applications that may lead to worker and consumer exposure. The NOES conducted during 1981–83 by NIOSH reported that 879 workers (187 females) were potentially exposed to thiophenol. Of these workers, 100 percent were potentially exposed during the use of actual products containing this compound (Ref. 10, NIOSH 1989). An OSHA PEL does not exist for thiophenol.

C. *Environmental exposure*. Thiophenol was detected at a concentration of 13 μg/L in effluent extract from petroleum refining (Ref. 2 Bursey and Pellizzari 1982).

I. Chemical Fate Information

An extensive search of available literature identified only a single screening study on the biodegradation of thiophenol under aerobic conditions. It was found that this compound was not removed from solution when incubated with an activated sludge seed (Ref. 8, Lutin et al. 1965). The concentration of thiophenol in this experiment, 500 mg/L, is not typical of what would be expected in the environment and this high concentration may have been toxic to microorganisms. Although volatilization of neutral thiophenol from water to the atmosphere can be reasonably predicted from an estimated Henry's Law constant (Ref. 9, Lyman 1982), its dissociation constant, 6.615 (Ref. 11, Serjeant and Dempsey 1979), indicates that it will be significantly ionized under environmental conditions. Therefore, its rate of volatilization from water cannot be reasonably predicted. No data could be located on the importance of direct photochemical degradation of thiophenol in the environment. The Committee recommends aerobic biodegradation, volatilization and photolysis testing because there are insufficient data to reasonably determine or predict persistence of thiophenol.

II. Health Effects Information

EPA's RfC/RfD Workgroup requested that the ITC review health effects testing for thiophenol because there is a low confidence in the RfD value and no RfC value. The Committee reviewed recent publicly-available health effects studies and recommended testing based on insufficient studies that could increase the confidence in the RfD value.

No studies were located regarding the oral or inhalation pharmacokinetics, reproductive effects, developmental toxicity, neurotoxicity, or oncogenicity of thiophenol. The Committee reviewed a *Salmonella*/microsome plate test for mutagenicity, this test indicates that thiophenol is a potential mutagen, but inadequate because of a high cytotoxicity at all test dose levels (Ref. 7, Lavoie et al. 1979).

The Committee recommends pharmacokinetics testing by oral and inhalation routes of exposure, reproductive effects, developmental toxicity, neurotoxicity, mutagenicity, and oncogenicity testing because there are potentially substantial exposures, and because there are insufficient data to reasonably determine or predict these effects of thiophenol.

III. Ecological Effects Information

The Committee reviewed the available ecological effects data, which are limited to one acute study with 3 species of fish (Ref. 1, Applegate et al. 1957). This study is insufficient to characterize acute fish toxicity because of the inadequate exposure duration, low number of test animals, and exposure to only one concentration of test material.

The Committee recommends algal toxicity, aquatic invertebrate and fish acute and chronic toxicity testing because there are potentially substantial exposures, and because there are insufficient data to reasonably determine or predict these effects of thiophenol.

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Dimethyl terephthalate (CAS No. 120–61–6).

Physical and Chemical Information

The Committee has information on measured physical chemical properties of dimethyl terephthalate including, melting point (140–142 °C; Ref. 1, Aldrich 1988), boiling point (288 °C; Ref. 15, Windholz 1983), log octanol/water partition coefficient (2.25; Ref. 4, Hansch and Leo 1985), and vapor pressure (0.010 mm Hg @25 °C; Ref. 3, Daubert and Danner 1985).

Rationale for Recommendation

A. *Exposure Information—Production/use/disposal/exposure/release.* The Committee reviewed available exposure information. In 1989, 3,822,973 million kilograms of dimethyl terephthalate were produced at 3 facilities in the United States (Ref. 14, USITC 1990). There were 5 facilities that manufactured dimethyl terephthalate in the U.S. in 1990 (Ref. 13, SRI 1990). Dimethyl terephthalate is used in polyester resins for film, fiber, bottle and plastic applications, especially polyethylene terephthalate, in coatings, as a chemical intermediate, and in the production of urethanes (Ref. 2, Chemcyclopedia 1990; Ref. 10, Sax and Lewis 1987). Many products containing dimethyl terephthalate are utilized by consumers. The Committee is concerned with the potential for exposure to dimethyl terephthalate because of its high production volume, potential for release, and presence in commercial and consumer products.

B. *Evidence for exposure—Human exposure.* The Committee reviewed available human exposure information including the use of dimethyl terephthalate in a variety of commercial and consumer applications that may lead to worker and consumer exposure. The NOES conducted during 1981–83 by NIOSH reported that 2,467 workers (204 females) were potentially exposed to dimethyl terephthalate. Of these workers, 100 percent were potentially exposed during the use of actual products containing this compound (Ref. 9, NIOSH 1989). An OSHA PEL does not exist for dimethyl terephthalate.

C. *Environmental exposure.* Dimethyl terephthalate has been qualitatively detected in forest air 1 m above a 45 year old spruce forest (Ref. 5, Helmig et al. 1989). It has been detected at a concentration of 0.6 ppb in Delaware river water near industrialized urban areas (Ref. 11, Sheldon and Hites 1978). Dimethyl terephthalate has been qualitatively detected in Advanced Waste Treatment concentrates (Ref. 8, Lucas 1984).

I. Chemical Fate Information

Studies on the biodegradation of dimethyl terephthalate using either soil samples or microorganisms isolated from soil indicate that this compound has the potential to biodegrade in the environment (Ref. 7, Kurane et al. 1977; Ref. 12, Slizen et al. 1985). The rate of dimethyl terephthalate biodegradation in the environment, however, cannot be determined from the available information. The Committee recommends river die-away biodegradation testing because there are insufficient data to reasonably determine or predict persistence of dimethyl terephthalate.

II. Health Effects Information

EPA's RfC/RfD Workgroup requested that the ITC review health effects testing for dimethyl terephthalate because there is a low confidence in the RfD value and no RfC value. The Committee reviewed recent publicly-available health effects studies and recommended testing based on insufficient studies that could increase the confidence in the RfD value.

The Committee reviewed available reproductive effects data. A single generation reproduction study with Long-Evans hooded rats in which males were fed up to 1.0 percent in the diet for 115 days prior to mating, and females fed for 6 days prior to mating and continuously through weaning of the offspring, revealed no adverse effects on libido, pregnancy, gestation, litter size or survival of offspring from birth through weaning (Ref. 6, Krasavage et al. 1973). The available study is insufficient to characterize the reproductive effects of dimethyl terephthalate because only one dose was tested for a single generation.

Data regarding developmental toxicity and neurotoxicity were not located in the publicly-available literature.

The Committee recommends reproductive effects, developmental toxicity, and neurotoxicity testing because there are potentially substantial exposures, and because there are insufficient data to reasonably determine or predict these effects of dimethyl terephthalate.

III. Ecological Effects Information

No studies were located in the publicly-available literature regrding the ecological effects of dimethyl terephthalate. The Committee recommends algal toxicity testing, aquatic invertebrate and fish acute and chronic toxicity testing, because there are potential substantial environmental releases of dimethyl terephthalate, and because there are no data to determine or predict ecological effects.

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2.3 *Recommended with intent-to-designate chemicals*. None.

2.4 *Recommended chemicals*. Three IRIS chemicals and 11 chemical groups were recommended for testing. Three IRIS chemicals were recommended because the Committee wanted to review TSCA section 8 (a) and 8(d) submissions and any voluntarily submitted use, exposure or release and physical chemical property information before deciding whether the chemicals should be designated for testing. Three groups (alkynes, nitroalcohols and phosphoniums) were recommended for minimum physical and chemical property testing and biodegradation rate screening tests because of concerns and uncertainties related to production and use, potential exposures and releases from production, processing and use, and the potential for persistence in the environment. Structure-biodegradation relationships (SBRs) are frequently used to predict the relative rate of biodegradation and the possible pathways of degradation. For these chemical groups there were insufficient data to develop SBRs and to reasonably predict chemical biodegradability. Three groups (hydrazines, oxiranes and alkoxysilanes) were recommended for ecological effects tests because of concerns and uncertainties related to production and use, potential exposures and releases from production, processing and use, and for potential to cause adverse ecological effects. Structure-activity relationships (SARs) are frequently used to predict the toxic potential of chemicals to cause adverse effects. For these chemical groups there were insufficient data to develop SARs and to reasonably predict potential to cause adverse ecological effects. Aldehyde hydrates were recommended for ecological effects testing to complete the Committee's recommendation process for aldehydes and their hydrates. Propylene glycol ethers and esters and methyl ethylene glycol ethers were recommended because Congress directed the Committee to give priority attention to chemical groups suspected of causing birth defects. Isothiocyanates were recommended for persistence testing to complete the Committee's recommendation process for isocyanates and structurally-related chemicals. Cyanoacrylates were recommended for physical and chemical property testing because they are chemicals with commercially important bonding applications and there are insufficient publicly-available data to reasonably determine or predict physical and chemical properties.

2.4.a. *IRIS Chemicals*.

m-Dinitrobenzene (CAS No. 99–65–0).

Physical and Chemical Information

The Committee has information on the measured physical chemical properties of *m*-dinitro-benzene including, melting point (89–90 °C; Ref. 22, Windholz 1983), boiling point (300–303 °C; Ref. 22, Windholz 1983), log octanol/water partition coefficient (1.49; Ref. 7, Hansch and Leo 1985), and water solubility (533 mg/L @25 °C; Ref. 19, Spanggord et al. 1980).

Rationale for Recommendation

A. *Exposure Information—Production/use/disposal/exposure/release*. The Committee reviewed available exposure information. In 1977, 1 facility listed site limited production of *m*-dinitrobenzene (Ref. 21, TSCAPP 1991). Information on current production volumes is CBI, but production is substantial. It is used as an intermediate for *m*-phenylenediamine, as a possible TNT replacement, and as a cathodic material in batteries (Ref. 10, Howard et al. 1976).

B. *Evidence for exposure—Human exposure*. The Committee reviewed available human exposure information including the use of *m*-dinitrobenzene in commercial and consumer applications which may lead to worker and consumer exposure. The NOES conducted during 1981–83 by NIOSH reported that 2,489 workers (1,914 females) were potentially exposed to *m*-dinitrobenzene. Of these workers, 22 percent were potentially exposed during the use of trade name products containing this compound (Ref. 15, NIOSH 1989). An OSHA PEL does not exist for *m*-dinitrobenzene.

C. *Environmental exposure*. The Committee reviewed available environmental exposure information. *m*-Dinitrobenzene has been detected at a concentration of 27 ng/m^3 in ambient air in the vicinity of industrial sources in Geismer, LA (Ref. 16, Pellizzari 1978). It has been detected at a concentration of 62 μg/mL waste in one of four sample extracts from incineration test sites (Ref. 11, James et al. 1984). *m*-Dinitrobenzene was found in condensate water effluent generated in the manufacture of TNT at concentrations ranging from 0.20–8.5 mg/L (Ref. 19, Spanggord et al. 1982).

I. Chemical Fate Information

The need for chemical fate testing of *m*-dinitrobenzene was considered by the Committee and is not recommended at this time.

II. Health Effects Information

EPA's RfC/RfD Workgroup requested that the ITC review health effects testing for *m*-dinitrobenzene because there is a low confidence in the RfD value and no RfC value. The Committee reviewed recent publicly-available health effects studies and recommended testing based on insufficient studies that could increase the confidence in the RfD value.

Developmental toxicity studies were not located in the available literature. The Committee has reviewed available reproductive effects data. Studies clearly indicate that *m*-dinitrobenzene is a potent testicular toxicant in the rat when administered by the oral route (Ref. 1, Blackburn 1988; Ref. 3, Cody et al. 1981; Ref. 4, Evenson et al. 1989a; Ref. 5, Evenson et al. 1989b; Ref. 6, Foster 1989; Ref. 8, Hess et al. 1988; Ref. 9, Holloway et al. 1990; Ref. 12, Linder et al. 1986; Ref. 13, Linder et al. 1988; Ref. 14, Linder et al. 1990; Ref. 18, Rehnberg et al. 1988). Single gavage doses of 15 mg/kg and higher led to dose-related effects on sertoli cell lactate and pyruvate production, testicular weight, and fertility. No treatment-related effects were noted on female rats administered up to 20 ppm for 16 weeks or up to 200 ppm for 8 weeks in drinking water (Ref. 3, Cody et al. 1981). Available studies indicate that *m*-dinitrobenzene is a potential reproductive toxicant, but are insufficient to characterize the reproductive effects of *m*-dinitrobenzene because effects on offspring were not tested.

The Committee reviewed available neurotoxicity data. Standard neurotoxicity tests of *m*-dinitrobenzene

were not located. Ataxia and brain stem lesions were found in germ-free male rats administered single oral doses of 25 mg/kg, and the same results occurred in conventional rats, but only after 5 days of repeated dosing (Ref. 17, Philbert et al. 1987). Available studies indicate that *m*-dinitrobenzene is a potential neurotoxicant, but are insufficient to characterize the neurotoxic effects because only males have been tested, and only limited endpoints were examined.

The Committee reviewed available subchronic toxicity data. Tests with rats administered *m*-dinitrobenzene in drinking water for 16 weeks found increased splenic weights in the 8 ppm groups, and in the 20 ppm groups, decreased body weight gain was seen in females, testicular effects in males, and hematology alterations in both sexes (Ref. 2, Christian et al. 1976; Ref. 3, Cody et al. 1981). Available studies indicate that *m*-dinitrobenzene potentially produces systemic toxic effects, but are insufficient to characterize the subchronic effects of *m*-dinitrobenzene because data are available for only one route of exposure and one species.

The Committee recommends reproductive effects, developmental toxicity, neurotoxicity, and subchronic toxicity testing because there are potentially substantial exposures to *m*-dinitrobenzene, and because there are insufficient data to reasonably determine or predict these effects.

III. Ecological Effects Information

The need for ecological effects testing of *m*-dinitrobenzene was considered by the Committee and is not recommended at this time.

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Allyl alcohol (CAS No. 107–18–6).

Physical and Chemical Information

The Committee has information on the measured physical chemical properties of allyl alcohol including, melting point (-129 °C; Ref. 1, Aldrich 1988), boiling point (96–98 °C; Ref. 1, Aldrich 1988), log octanol/water partition coefficient (0.17; Ref. 10, Hansch and Leo 1985), water solubility (miscible @25 °C; Ref. 25, Yalkowsky et al. 1989), vapor pressure (26.1 mm Hg @25 °C; Ref. 4, Daubert and Danner 1985), and Henry's Law constant (4.99E-6 atm-m3/mole @25 °C; Ref. 11 Hine and Mookerjee 1975).

Rationale for Recommendation

A. *Exposure Information—Production/use/disposal/exposure/release.* The Committee reviewed available exposure information. In 1977, between 21 and 110 million pounds of allyl alcohol were produced at 4 different facilities in the United States (Ref. 23, TSCAPP 1991). There were 2 facilities that manufactured allyl alcohol in the U.S. in 1990 (Ref. 22, SRI 1990). Information on current production volumes is CBI, but production is substantial. It is used in resins and plasticizers, as an intermediate for pharmaceuticals and other organic synthesis, manufacture of glycerol, and acrolein, military poison, and herbicide (Ref. 20, Sax and Lewis 1987).

B. *Evidence for exposure—Human exposure.* The Committee reviewed available human exposure information including the use of allyl alcohol in a variety of commercial and consumer applications that may lead to worker and consumer exposure. OSHA's revised final rule PEL of 2 ppm 8–hour TWA, 4 ppm 15–minute STEL, and skin notation was established based on

human data considering the effects of sensory irritation and disturbed vision from exposure to allyl alcohol at concentrations higher than the revised PEL (Ref. 24, U.S.EPA 1989). The NOES conducted during 1981–83 by NIOSH reported that 1,019 workers (157 females) were potentially exposed to allyl alcohol. Of these workers, 100 percent were potentially exposed during the use of actual products containing this compound (Ref. 16, NIOSH 1989). Allyl alcohol has been detected in the breaths from 2 (1 smoker) of 8 male volunteers in a study of human respiratory gas (Ref. 3, Conkle et al. 1975).

C. *Environmental exposure.* Allyl alcohol is reported to be released as emissions from gasoline engines (Ref. 9, Hampton et al. 1982).

I. Chemical Fate Information

The need for chemical fate testing of allyl alcohol was considered by the Committee and is not recommended at this time.

II. Health Effects Information

EPA's RfC/RfD Workgroup requested that the ITC review health effects testing for allyl alcohol because there is a low confidence in the RfD value and no RfC value. The Committee reviewed recent publicly-available health effects studies and recommended testing based on insufficient studies that could increase the confidence in the RfD value.

The Committee reviewed available pharmacokinetics data, which are limited to metabolic conversion studies with rats administered allyl alcohol by subcutaneous or intravenous injection (Ref. 13, Kaye 1973; Ref. 14, Kaye and Young 1972; Ref. 15, Kodama and Wine 1958), and one *in vitro* study with rat liver microsomal and cytosol preparations (Ref. 17, Patel et al. 1980a; Ref. 18, Patel et al. 1980b; Ref. 19, Patel et al. 1983). Available studies are insufficient to characterize the pharmacokinetics of allyl alcohol because there are insufficient quantitative data on absorption, distribution, and excretion of allyl alcohol.

No studies regarding reproductive effects or standard developmental toxicity were located in the publicly-available literature. A study in which male rats were dosed for 33 weeks with up to 5.1 mg/kg/day by gavage and mated on weeks 1, 11, 21, and 30 was reviewed (Ref. 12, Jenkinson and Anderson 1990). No effects were noted on fetal development. This study is inadequate for characterizing developmental toxicity because only males were tested, and standard developmental toxicity tests were not conducted.

No data regarding the neurotoxic potential of allyl alcohol were located. The Committee has reviewed available subchronic toxicity data. Rats administered 4.8 mg/kg/day for 15 weeks in drinking water showed impaired renal function, and females administered 6.9 mg/kg/day developed increased relative liver and kidney weights (Ref. 2, Carpanini et al. 1978). These data were supported by a rat oral study (Ref. 7, Dunlap et al. 1958). A rat inhalation study with exposures up to 150 ppm for 7 hours/day, 5 days/week for 90 days showed increased relative weights and lesions in kidneys and lungs (Ref. 6, Dunlap and Hine 1955; Ref. 7, Dunlap et al. 1958). These studies indicate that allyl alcohol is a systemic toxicant, but are insufficient to comprehensively characterize systemic effects because they are limited to tests with one species.

The Committee recommends pharmacokinetic, 2-generation reproductive effects, developmental toxicity, neurotoxicity, and subchronic toxicity testing because there are potentially substantial exposures, and because there are insufficient data to reasonably determine or predict these effects of allyl alcohol.

III. Ecological Effects Information

The Committee reviewed available ecological effects data. The 12-day LC50 for clam larvae (Mercenaria mercenaria) exposed in seawater was <2.5 mg/L, indicating a high sensitivity to allyl alcohol (Ref. 5, Davis and Hidu 1969). Static acute tests identified LC50 values of 1.28 mg/L for rainbow trout (Oncorhynchus mykiss) (Ref. 21, Schneider 1979), and 0.32 mg/L for fathead minnows (Pimephales promelas) (Ref. 8, Ewell et al. 1986).

The Committee recommends algal toxicity, aquatic invertebrate acute and chronic, and fish chronic toxicity testing because there are potentially substantial releases, and because there are insufficient data to reasonably determine or predict these effects of allyl alcohol.

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2,4-Dichlorophenol (CAS No. 120–83–2).

Physical and Chemical Information

The Committee has information on the measured physical chemical properties of 2,4-dichlorophenol including, melting point (42–43 °C; Ref. 1, Aldrich 1988), boiling point (209–210 °C; Ref. 1, Aldrich 1988), log octanol/water partition coefficient (2.92; Ref. 7, Hansch and Leo 1985), water solubility (4,500 mg/L @20 °C; Ref. 19, Yalkowsky et al. 1989), vapor pressure (0.067 mm Hg @25 °C; Ref. 3, Bidleman and Renberg 1985), and dissociation constant (7.892; Ref. 14, Serjeant and Dempsey 1979).

Rationale for Recommendation

A. *Exposure Information—Production/use/disposal/exposure/release.* The Committee reviewed available exposure information. In 1978, 26.482 million pounds of 2,4-dichlorophenol were produced at 3 facilities in the United States (Ref. 18, USITC 1979). There was one facility that manufactured 2,4-dichlorophenol in the U.S. in 1990 (Ref. 16, SRI 1990). Information on current production volumes is CBI, but production is substantial. 2,4-Dichlorophenol is used in the manufacture of the pesticide 2,4-D and in organic synthesis (Ref. 6, Freiter 1979; Ref. 12, Sax and Lewis 1987).

B. *Evidence for exposure—Human exposure.* The Committee reviewed available human exposure information including the use of 2,4-dichlorophenol in a variety of commercial and consumer applications that may lead to worker and consumer exposure. The NOES conducted during 1981–83 by NIOSH reported that 63 workers (23 females) were potentially exposed to 2,4-dichlorophenol. Of these workers, 100 percent were potentially exposed during the use of actual products containing this compound (Ref. 10, NIOSH 1989). An OSHA PEL does not exist for 2,4-dichlorophenol.

C. *Environmental exposure.* The Committee reviewed available environmental exposure information. According to TRI, 1,403 lbs of 2,4-dichlorophenol were released to air, 107 lbs were released to water, 2 lbs were released to land, 6 lbs were released to POTWs in 1987 (Ref. 17, TRI 1990). In 1988, TRI indicates that 2,321 lbs were released to air, 250 lbs were released to water, and 12,000 lbs were released to land (Ref. 17, TRI 1990). 2,4-Dichlorophenol has been detected in several drinking water supplies. For example, it was detected at a mean concentration of 0.18 ppb in 56 of 108 samples in the National Organic Monitoring Survey (Ref. 13, Scow et al. 1982). 2,4-Dichlorophenol has been detected at concentrations ranging from 9–17 ppb in drinking water from 3 of 6 Canadian cities; however, it was not detected in raw water supplies from which these drinking waters were derived (Ref. 15, Sithole et al. 1986). 2,4-Dichlorophenol was detected in 6 of 10 samples from 2 monitoring wells at a creosote waste site at concentrations ranging from 3.2–54.4 ppb (Ref. 2, Bedient et al. 1984). In an analysis of ambient urban air during 7 rain episodes, 2,4-dichlorophenol was detected at concentrations ranging from 0.60–2.3 ng/m3 (Ref. 9, Leuenberger et al. 1985). 2,4-Dichlorophenol has been detected in several samples taken from industrial effluent; for example, it has been detected in effluent extract from the organic/plastics, pesticide, organic chemicals, and the pulp and paper industries (Ref. 4, Bursey and Pellizzari 1982).

I. Chemical Fate Information

The need for chemical fate testing of 2,4-dichlorophenol was considered by the Committee and is not recommended at this time.

II. Health Effects Information

EPA's RfC/RfD Workgroup requested that the ITC review health effects testing for 2,4-dichlorophenol because there is a low confidence in the RfD value and no RfC value. The Committee reviewed recent publicly-available health effects studies and recommended testing based on insufficient studies that could increase the confidence in the RfD value.

No studies were located in the publicly-available literature regarding neurotoxicity. The Committee has reviewed available immunotoxicity data. Female rats exposed to an author-estimated dose of 3.0 mg/kg/day of 2,4-dichlorophenol in drinking water from weaning age through breeding at 90 days, parturition, and weaning of pups, showed decreased delayed hypersensitivity response, along with increased serum antibody levels (Ref. 5, Exon and Koller 1985). These data suggest the immune system is sensitive to 2,4-dichlorophenol; no effects were seen on other systems, including reproductive, at this dose level or a higher dose of 30 mg/kg/day. Further, a subchronic oral dietary toxicity study with rats found no adverse effects from 90–day exposure to 2500 ppm (Ref. 11, NTP 1989), and a limited oral dietary study with mice found no adverse effects from doses of 100 mg/kg/day, while reduced relative liver weights and SGOT levels were noted in the 230 mg/kg/day group (Ref. 8, Kobayashi et al. 1972). This immunotoxicity study indicates that 2,4-dichlorophenol potentially produces immune system effects, but is insufficient to comprehensively characterize these effects because limited immunologic endpoints were examined.

The Committee recommends neurotoxicity and immunotoxicity testing because there are potentially substantial exposures, and because there are insufficient data to determine or predict the effects of 2,4-dichlorophenol on these systems.

III. Ecological Effects Information

The need for ecological effects testing of 2,4-dichlorophenol was considered by the Committee and is not recommended at this time.

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b. Alkynes

The Committee recommends alkynes for physical chemical property and biodegradation rate screening tests. The Committee's recommendation is based on concerns and uncertainties related to production and use, potential exposures and releases from production, processing and use and potential for persistence.

Annual production volumes of the alkynes exceed 100 million pounds. Occupational exposure estimates, available for 10 alkynes, indicate that almost 60,000 workers are potentially exposed to alkynes at over 3,000 facilities involved in their production, formulation, and use (Ref 17, NIOSH, 1990). Uncertainties associated with occupational exposures are unclear since there are no publicly-available exposure estimates for 9 alkynes recommended for testing. OSHA occupational exposure standards exist for 2 alkynes. Alkynes are used as chemical intermediates, fuels and in specialty formulations, many of which have the potential for occupational exposures or environmental releases. Uncertainties associated with environmental releases are unclear since none of the alkynes are on the TRI and there are no publicly-available effluent monitoring data for most alkynes. The Committee recognizes that one alkyne, 3-butyn-2-ol,2-methyl (CAS#115–19–5) is among the 53 chemicals in the Organization for Economic Cooperation and Development's (OECD) Screening Information Data Sets (SIDS) phase one voluntary testing program. Submission of reliable data or data development through the OECD SIDS program could change the Committee's testing recommendations for this alkyne. The Committee hopes that manufacturers, processors, and users will respond to the voluntary solicitation for use, exposure, and release data (described in Chapter 1 of this Report) and that information submitted voluntarily will clarify uncertainties associated with use, exposures and releases. The Committee recognizes that as a result of this recommendation, the uncertainties related to exposure and release of alkynes may be clarified after the Committee's review of the data obtained from the automatic 8(a) and 8(d) rules along with any other voluntary information submitted as a result of the request made in Chapter 1 of this report.

The Committee recommends alkynes for biodegradation screening rate tests to identify commercially important alkynes that are likely to persist in the environment. The Committee is aware that one alkyne has been tested for biodegradation; moderate to slow biodegradation was reported. The Committee has not considered health or ecological effects of alkynes at this time, because they want to have an opportunity to review all of the non-public health and ecological effects data as well as chemical fate data, submitted under TSCA section 8(d) and to meet with any interested groups before determining which alkynes should be tested. Submitted information is likely to be considered by a number of government agencies including EPA, DOT, DOI, and State and local governments involved with assessing the impact of chemical releases to the environment. The Committee makes non-CBI information available to the OECD and other international organizations to promote information exchange and to conserve chemical testing resources.

Summary of recommended studies. Testing recommendations for the 19 alkynes listed in the paragraph following Table 1 are summarized in Table 1.

Physical and Chemical Information

The Committee has limited information on measured physical and chemical properties for the alkynes listed in the paragraph following Table 1: 10 melting points, 14 boiling points, 1 log octanol/water partition coefficient, 11 water solubilities), 4 vapor pressures, and 2 Henry's Law constants (see Ref. 2, Aldrich 1988; Ref. 3, Boublik et al. 1984; Ref. 7, Daubert and Danner 1989; Ref. 8, Dean 1985; Ref. 10, Grafje 1985; Ref. 11, Hansch and Leo 1985; Ref. 12, Hine and Mookerjee 1975; Ref. 13, Hort 1978; Ref. 15, McAuliffe 1966; Ref. 18, Riddick 1986; Ref. 21, Sheppard and Mageli 1982).

Rationale for Recommendation

A. *Exposure Information—Production/use/disposal/exposure/release.* The Committee believes that the alkynes listed in the paragraph following Table 1 are commercially available, and that many are produced in substantial quantities. Actual production volumes are CBI.

Alkynes are mainly acetylene derived chemicals (Ref. 10, Grafje 1985; Ref. 13, Hort 1978). Alkynes are used in a number of applications including specialty fuels, as chemical intermediates, in the manufacture of Vitamin A, in metal pickling and plating operations, as antifoaming wetting agents, in developer compounds, pesticide wettable powders, electroplating baths, as a volatile wetting agent for paper coatings, in floor polishes, glass cleaning formulations, coatings, inks, fountain solutions, oil-well acidizing compositions, mild steel treatments to prevent hydrogen embrittlement, in the preparation of the miticide Omite and sulfadiazine, in the manufacture of butanediol, butenediol, ethers, and ethylene oxide, in the production of the wild oat herbicide

carbyne (Barban), in the manufacture of fragrance and flavor chemicals, in peroxide ester catalysts, in the manufacture of neoprene, and as a polymerization initiator (Ref. 5, Chemcyclopedia 1990; Ref. 10, Grafje 1985; Ref. 13, Hort 1978; Ref. 19, Sax and Lewis 1987; Ref. 21, Sheppard and Mageli 1982).

B. *Evidence for exposure—Human exposure.* The NOES conducted during 1981–83 by NIOSH reported that 119 workers were potentially exposed to propyne; 144 to 3,6-dimethyl-4-octyne-3,6-diol; 36,869 to 2-propyn-1-ol; 8,142 to 3,5-dimethyl-1-hexyn-3-ol; 4,170 to 2-butyne-1,4-diol; 441 to 2-methyl-3-butyn-2-ol; 4,574 to 2,4,7,9-tetramethyl-5-decyne-4,7-diol; 64 to 1-buten-3-yne; 2,089 to 2,2-[2-butyne-1,4-diylbis(oxy)]bisethanol; and 1,467 to 3,3-[2-butyne-1,4-diylbis(o- xy)]bis[2-hydroxy-1-propanesulfonic acid] (Ref. 17, NIOSH 1989).

C. *Environmental exposure.* 2-Butyne-1,4-diol has been identified in wastewater extract from the organics and plastics industry at a concentration of 5304 mg/L and 2-methyl-3-butyn-2-ol has been detected in wastewater extract from the electronics industry at a concentration of 7646 mg/L (Ref. 4, Bursey and Pellizzari 1982). Tetramethyl-decynediol (possibly 2,4,7,9-tetramethyl-5-decyne-4,7-diol) was detected 5 times at concentrations from 0.5–22 μg/L in the effluent of publicly owned treatment works in New Jersey (Ref. 6, Clark et al. 1991). Propyne has been detected in ambient air samples taken in the central business district of Los Angeles, CA at concentrations ranging from 0–6 ppb (Ref. 16, Neligan 1962). Propyne has been quantitatively detected in 50 urban air samples and 26 source dominated samples (Ref. 20, Shah and Heyerdahl 1988).

I. Chemical Fate Information

In a soil biodegradation study, 2-propyn-1-ol was moderately degraded; half-lives of 12.6 and 13.0 days were determined in a slightly basic sandy loam soil and in an acidic soil, respectively, with initial concentrations of 980 and 930 mg/kg-soil, respectively (Ref. 14, Loehr 1989). In an aerobic aqueous laboratory screening test with sewage inoculum, 2-propyn-1-ol exhibited slow biodegradation (2 percent BOD theoretical) during a 5–day BOD test (Ref. 9, Dore et al. 1975).

Alkynes are recommended for physical and chemical property and biodegradation rate screening tests because they are produced in substantial quantities, there are uncertainties related to environmental releases and subsequent exposures to aquatic organisms, there are data for four alkynes that suggest that effluent concentrations may exceed concentrations that are acutely toxic to fish, and there are insufficient data to reasonably determine or predict physical and chemical properties and biodegradation rates.

II. Health Effects Information

The need for health effects testing was not considered by the Committee and is not recommended at this time.

III. Ecological Effects Information

There are few toxicity data indicating that fish may be acutely sensitive to some alkynes [e.g., LC50 = 1.5–50 mg/L for 2-propyn-1-ol and 2-butyne-1,4-diol and 660–3300 mg/L for 2-methyl-3-butyn-2-ol and 3-methyl-1-pentyne-3-ol (Ref. 1, AQUIRE 1991)]. The need for ecological effects testing was not considered by the Committee and is not recommended at this time.

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c. Nitroalcohols

The Committee recommends nitroalcohols for physical chemical property and biodegradation rate screening tests. The Committee's recommendation is based on concerns and uncertainties related to production and use, potential exposures and releases from production, processing and use, and potential for persistence.

Annual production volumes of the nitroalcohols are CBI, but are large. Occupational exposure estimates, available for one nitroalcohol, indicate that over 20,000 workers are potentially exposed to the chemical at over 700 facilities involved in production, formulation, and use (Ref. 2, NIOSH, 1989). Uncertainties associated with occupational exposures are unclear since there are no publicly-available

exposure estimates. No OSHA occupational exposure standards exist for nitroalcohols. Nitroalcohols are used as chemical intermediates, in automobile tires, photographic products, chemical toilets, embalming fluids, cutting oil emulsions, nonprotein glues, and sizings, all of which have the potential for occupational exposures or environmental releases. Uncertainties associated with environmental releases are unclear since none of the nitroalcohols are on the TRI and there are no publicly-available effluent monitoring data. The Committee hopes that manufactures, processors, and users will respond to the voluntary solicitation for use, exposure, and release data (described in Chapter 1 of this Report) and that information submitted voluntarily will clarify uncertainties associated with use exposures and releases. The Committee recognizes that as a result of this recommendation, the uncertainties related to exposure and release of nitroalcohols may be clarified after the Committee's review of the data obtained from the automatic 8(a) and 8(d) rules along with any other voluntary information submitted as a result of the request made in Chapter 1 of this report.

The Committee is recommending nitroalcohols for physical/chemical property and biodegradation rate screening tests to identify commercially important nitroalcohols that are likely to persist in the environment. There is no publicly available information on nitroalcohol biodegradation. The Committee has not considered health or ecological effects of nitroalcohols at this time, because they want to have an opportunity to review all of the non-public health and ecological effects data as well as chemical fate data, submitted under TSCA section 8(d) and to meet with any interested groups before determining which nitroalcohols should be tested. Submitted information is likely to be considered by a number of government agencies including EPA, DOT, DOI, and State and local governments involved with assessing the impact of chemical releases to the environment. The Committee makes non-CBI information available to the OECD and other international organizations to promote information exchange and to conserve chemical testing resources.

Summary of recommended studies. Testing recommendations for the four nitroalcohols listed in the paragraph following Table 1 are summarized in Table 1.

Physical and Chemical Information

The Committee only has measured water solubility data for nitroalcohols listed in the paragraph following Table 1 (Ref. 1, Dewey and Bollmeier 1981).

Rationale for Recommendation

A. *Exposure Information—Production/use/disposal/exposure/release.* The Committee believes that the nitroalcohols listed in the paragraph following Table 1 are commercially available, and that many are produced in substantial quantities. Actual production volumes are CBI. Nitroalcohols are used as chemical intermediates sources of formaldehyde for cross-linking of polymers, to form polyester and polyurethane products, in automobile tires as an adhesion agent, in photographic products as hardening agents and stabilizers, to control odors in chemical toilets, as preservatives, in embalming fluids, as a bactericide and slimicide for aqueous systems, in cutting oil emulsions, industrial water systems, drilling muds, nonprotein glues, and sizings (Ref. 1, Dewey and Bollmeier 1981; Ref. 3, Sax and Lewis 1987; Ref. 4, Trotz and Pitts 1981; Ref. 5, Windholz 1983).

B. *Evidence for exposure.* The NOES conducted during 1981–83 by NIOSH reported that 20,044 workers were potentially exposed to 2-hydroxymethyl-2-nitro-1,3-propanediol (Ref. 2, NIOSH 1989).

I. Chemical Fate Information

Except for the water solubility data, the Committee has no experimental chemical fate information on the nitroalcohols listed in the paragraph following Table 1. Nitroalcohols are recommended for physical and chemical property and biodegradation rate screening tests because they are produced in substantial quantities, there are uncertainties related to environmental releases, and there are insufficient data to reasonably determine or predict physical and chemical properties and biodegradation rates.

II. Health Effects Information

The need for health effects testing was not considered by the Committee and is not recommended at this time.

III. Ecological Effects Information

The need for ecological effects testing was not considered by the Committee and is not recommended at this time.

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d. Phosphonium compounds

The Committee recommends phosphonium compounds for physical chemical property and biodegradation rate screening tests. The Committee's recommendation is based on concerns and uncertainties related to production and use, potential exposures and releases from production, processing and use, and the potential for persistence.

Annual production volumes of the phosphonium compounds are CBI, but are large. Occupational exposure estimates, available for one phosphonium, indicate that over 4,000 workers are potentially exposed at facilities involved in their production, formulation, and use (Ref. 5, NIOSH, 1989). Uncertainties associated with occupational exposures are unclear since there are no publicly-available exposure estimates for the phosphonium compounds recommended for testing. No OSHA occupational exposure standards exist for the phosphonium compounds. Phosphonium compounds are used as phase transfer catalysts, catalysts for thermosets, and flame retardants for cotton finishes, many of which have the potential for occupational exposures or environmental releases. Uncertainties associated with environmental releases are unclear since none of the phosphonium compounds are on the TRI and there are no publicly-available effluent monitoring data for most phosphonium com- pounds. The Committee hopes that manufactures, processors, and users will respond to the voluntary solicitation for use, exposure, and release data (described in Chapter 1 of this Report) and that information submitted voluntarily will clarify uncertainties associated with use exposures and releases. The Committee recognizes that as a result of this recommendation, the uncertainties related to exposure and release of

phosphonium compounds may be clarified after the Committee's review of the data obtained from the automatic 8(a) and 8(d) rules along with any other voluntary information submitted as a result of the request made in Chapter 1 of this report.

The Committee is recommending phosphonium compounds for physical chemical property and biodegradation rate screening tests to identify commercially important phosphonium compounds that are likely to persist in the environment. The Committee has not considered health or ecological effects of phosphonium compounds at this time, because they want to have an opportunity to review all of the non-public health and ecological effects data as well as chemical fate data, submitted under TSCA section 8(d) and to meet with any interested groups before determining which phosphonium compounds should be tested. Submitted information is likely to be considered by a number of government agencies including EPA, DOT, DOI, and State and local governments involved with assessing the impact of chemical releases to the environment. The Committee makes non-CBI information available to the OECD and other international organizations to promote information exchange and to conserve chemical testing resources.

Summary of recommended studies. Testing recommendations for the five phosphonium compounds listed in the paragraph following Table 1 are summarized in Table 1.

Physical and Chemical Information

The Committee has one measured melting point for the phosphonium compounds listed in the paragraph following Table 1. (Ref. 1, Aldrich 1988).

Rationale for Recommendation

A. *Exposure Information—Production/use/disposal/exposure/release.* The Committee believes that the phosphonium compounds listed in the paragraph following Table 1 are commercially available, and that many are produced in substantial quantities. Actual production volumes are CBI.

Phosphonium compounds are used in a number of applications including phase transfer catalysts, catalysts for thermosets, and flame retardants for cotton finishes such as military goods, industrial protective clothing, curtains, and children's sleepwear (Ref. 1, Aldrich 1988; Ref. 3, Chemcyclopedia 1990; Ref. 4, Drake 1980; Ref. 7, Weil 1980). For two phosphonium compounds no publicly-available use information was located (CAS numbers 35835–94–0 and 124–64–1).

B. *Evidence for exposure.* The NOES conducted during 1981–83 by NIOSH reported that 4,388 workers were potentially exposed to benzyltriphenylphosphonium chloride (Ref. 5, NIOSH 1989).

I. Chemical Fate Information

The Committee has almost no experimental chemical fate information on the phosphonium compounds listed in the paragraph following Table 1. Phosphonium compounds are recommended for physical and chemical property and biodegradation rate screening tests because they are produced in substantial quantities, there are uncertainties related to environmental releases, and there are insufficient data to reasonably determine or predict physical and chemical properties and biodegradation rates.

II. Health Effects Information

The Committee is aware that 2 phosphonium compounds have been tested in both a 13–week prechronic test and a 2–year bioassay (Ref. 6, NTP, 1987). These compounds caused hepatocellular necrosis, thyroid and adrenal gland lesions, and neurotoxicity in rats and mice, but no evidence of carcinogenicity or mutagenicity in Salmonella typhimurium, mouse lymphoma L5178Y cells and Chinese hamster ovary cells. The need for health effects testing was not considered by the Committee and is not recommended at this time.

III. Ecological Effects Information

There are no available aquatic toxicity data for the phosphonium compounds listed in Table 1 (Ref. 2, AQUIRE, 1991). The need for ecological effects testing was not considered by the Committee and is not recommended at this time.

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e. Hydrazines

The Committee recommends hydrazines for ecological effects testing. The Committee's recommendation is based on concerns and uncertainties related to production, use, persistence, potential exposures and releases from production, processing and use, and the potential for causing ecological effects.

Annual production volumes of hydrazines exceed 10 million pounds. Occupational exposure estimates, available for 14 hydrazines, indicate that over 154,000 workers are potentially exposed to hydrazines at over 11,000 facilities involved in their production, formulation, and use. Uncertainties associated with occupational exposure are unclear since there are no publicly-available exposure estimates for 21 hydrazines recommended for testing. OSHA occupational exposure standards exist for 4 hydrazines. Hydrazines are used as synthetic intermediates, fuels, and as additives or reagents in specialty applications, many of which have the potential for occupational exposures or environmental releases. Uncertainties associated with the uses of the individual hydrazines are also unclear since use information is available for only 12 hydrazines. Uncertainties associated with environmental exposure are unclear since only 4 of the hydrazines are on the TRI and there is very little publicly-available effluent monitoring data for hydrazines. The Committee hopes that manufacturers, processors, and users will respond to the voluntary solicitation for use, exposure, and release data (described in Chapter 1 of this report) and that information submitted voluntarily will clarify uncertainties associated with use, exposures, and releases. The Committee recognizes that as a result of this recommendation, uncertainties related to exposure and release of hydrazines may be clarified after the Committee's review of the data obtained from the automatic 8(a) and 8(d) rules along with any other voluntary

information submitted as a result of the request made in Chapter 1 of this report.

The Committee is recommending hydrazines for ecological effects testing to identify commercially important hydrazines that are likely to cause adverse ecological effects. The Committee is aware that 5 hydrazines have been tested for ecological effects; high to moderate toxicity was reported. The need for chemical fate and health effects testing of hydrazines were not considered by the Committee and is not recommended at this time, because they want to have an opportunity to review all of the non-public chemical fate and health effects data as well as the ecological effects data submitted under TSCA section 8(d) and to meet with any interested groups before determining which hydrazines should be tested. The Committee, however, is aware that some hydrazines are carcinogenic, mutagenic, teratogenic, and acutely toxic to livers, lungs and other organs of animals. The Committee recognizes that hydrazine, methylhydrazine, 1,1-dimethylhydrazine and 1,2-diphenylhydrazine are listed on the 1990 Clean Air Act Amendments; any recommendations of comparative oral and inhalation pharmacokinetics, subchronic inhalation testing, etc. to facilitate EPA's Reference Concentration (RfC) Workgroup's ability to establish RfC values will occur after the Committee has reviewed the non-public health and safety studies that will be submitted under TSCA section 8(d). The Committee also recognizes that there are uncertainties related to the commercial production of methylhydrazine and 1,2-diphenylhydrazine; TSCA 8(a) submissions submitted in response to this Report will be used to evaluate production volumes of these chemicals. In addition, the Committee is aware that some hydrazines may persist for weeks; however, few data are available. Submitted information is likely to be considered by a number of government agencies including EPA, DOT, DOI, and State and local governments involved with assessing the impact of chemical releases to the environment. The Committee makes non-CBI information available to the OECD and other international organizations to promote information exchange and to conserve chemical testing resources.

Summary of recommended studies. Testing recommendations for the hydrazines listed in the paragraph following Table 1 are summarized in Table 1.

Physical and Chemical Information

The Committee has limited information on measured physical and chemical properties for the hydrazines listed in the paragraph following Table 1: 7 boiling points, 6 log octanol/water partition coefficients, 17 melting points, 5 pKa values, and 4 vapor pressures (Ref. 1, Aldrich 1988; Ref. 4, Boublik et al. 1984; Ref. 5, Braun and Zirrolli 1983; Ref. 6, Daubert and Danner 1989; Ref. 12, Hansch and Leo 1985; Ref. 22, Perrin 1965; Ref. 23, Raphaelian 1966; Ref. 25, Schiessl 1980; Ref. 33, Windholz et al. 1983).

Rationale for Recommendation

A. *Exposure Information—Production/use/disposal/exposure/release.* The Committee believes that the hydrazines listed in the paragraph following Table 1 are commercially available, and that many are produced in substantial quantities. Actual production volumes are CBI.

The major use of hydrazine, accounting for approximately 60 percent of its production, is as a synthetic intermediate. Hydrazines are used in water treatment, for the protection of steel boilers, as rocket fuel, reducing agents, polymer blowing agents, as synthetic intermediates for dyestuffs, pharmaceuticals, antipyrine, and nitron (a stabilizer for explosives), and as a non-staining high contrast photographic developer (Ref. 24, Sax and Lewis 1987; Ref. 25, Schiessl 1980; Ref. 26, Schirmann 1989; Ref. 33, Windholz et al. 1983). For several hydrazines, no publicly-available use information was located (CAS numbers 86–93–1, 109–27–3, 110–21–4, 142–46–1, 563–41–7, 1937–19–5, 2231–57–4, 2582–30–1, 2760–98–7, 5329–12–4, 6294–89–9, 6610–29–3, 7335–65–1, 7400–27–3, 10396–10–8, 13464–80–7, 20469–71–0, 32687–78–8, 33509–43–2, 63134–30–5 and 63467–74–3).

B. *Evidence for exposure—Human exposure.* The NOES conducted during 1981–1983 by NIOSH estimates that 59,675 workers were potentially exposed to hydrazine; 38,882 to 1-phenyl-3-pyrazolidinone; 26,304 to 1,2-dihydro-1-phenyl-5H-tetrazole-5-thione; 14,621 to hydrazine monohydrate; 2,815 to hydrazinecarboxamide monohydrochloride; 2,197 to 1,1-dimethylhydrazine; 2,120 to hydrazine dihydrochloride; 1,822 to carbonic dihydrazide; 1,494 to 4,4'-oxybis-benzenesulfonic acid dihydrazide; 1,473 to methylhydrazine; 977 to 1,2-diphenylhydrazine; 910 to hydrazine sulfate (1:1); 645 to phenylhydrazine hydrochloride; and 212 to phenylhydrazine (Ref. 19, NIOSH 1990). The concentration of hydrazine and 1,1-dimethylhydrazine in personal air samples at a propellant production facility was 0.22–1.6 ppm and 0.23–4.61 ppm, respectively (Ref. 29, Stone 1978).

C. *Environmental exposure.* According to the TRI, 356,172 pounds of hydrazine sulfate (2:1), 30,217 pounds of hydrazine, 4,333 pounds of 1,1-dimethylhydrazine, and 2,928 pounds of methylhydrazine were released to the environment in 1988 (Ref. 30, TRI 1990). Atmospheric emissions of hydrazine have been associated with the following industrial operations: finishing plants, wood products, inorganic pigments, industrial inorganic chemicals, pharmaceutical preparations, cyclic crudes and intermediates, agricultural chemicals, chemical preparations, fabricated metal parts, internal combustion engines, residential lighting fixtures manufacture, electronic components and accessories, semiconductors and related devices, guided missiles and space vehicles, and photographic equipment and supplies (Ref. 21, Pacific Environmental Services, Inc. 1987). Similarly, atmospheric emission of 1,1-dimethylhydrazine have been associated with industrial organic chemicals, chemical preparations and petroleum refining (Ref. 21, Pacific Environmental Services, Inc. 1987).

I. Chemical Fate Information

Except for a search of readily available information relating to the persistence of hydrazines in aquatic systems, the need for chemical fate testing of hydrazines was not considered by the Committee and is not recommended at this time. There is considerable uncertainty concerning the persistence of simple hydrazines (i.e., hydrazines and methyl substituted hydrazines) in aquatic systems; reported half-lives in water range from less than 1 day to approximately 14 days (Ref. 3, Banerjee et al. 1978; Ref. 5, Braun and Zirrolli 1983; Ref. 16, MacNaughton 1979; Ref. 20, Ou and Street 1987; Ref. 27, Slonim and Gisclard 1976). More highly substituted hydrazines, such as phenylhydrazine, appear to be resistent to degradation in water (Ref. 15, Kondo et al. 1988; Ref. 17, Malaney 1960). The

Committee is aware that 1,2-diphenylhydrazine oxidizes rapidly in water to form azobenzene and that there are no direct sampling methods for environmental samples (Ref. 2, ATSDR 1989). While these factors make it difficult to assess the importance of 1,2-diphenylhydrazine in the environment, where continuous sources of 1,2-diphenylhydrazine are present, organisms will be exposed to a steady state concentration of both 1,2-diphenylhydrazine and azobenzene.

II. Health Effects Information

The Committee recognizes that the NIOSH criteria document for hydrazines identifies hydrazines as carcinogenic, mutagenic, teratogenic, and acutely toxic to the liver, lungs, and other organs of animals (Ref. 18, NIOSH 1978). The need for health effects testing of hydrazines was not considered by the Committee and is not recommended at this time.

III. Ecological Effects Information

Available acute aquatic toxicity data, for 5 hydrazines (hydrazine, 1,1-dimethylhydrazine, methylhydrazine, and hydrazine monohydrate), indicate that each is highly toxic to at least one species of freshwater fish, invertebrates, or algae, and moderately toxic to other test species (LC50s range from 0.04 to 34.0 mg/L) (Ref. 7, Fisher et al. 1978; Ref. 8, Fisher et al. 1980; Ref. 9, Fisher et al. 1980; Ref. 11, Greenhouse 1977; Ref. 14, Hunt et al. 1981; Ref. 28, Slonim 1977; Ref. 31, Velte 1984). Concentrations of hydrazine, methylhydrazine, or 1,1-dimethylhydrazine in excess of 10 mg/L were teratogenic to embryos of Xenopus laevis (clawed toad) (Ref. 10, Greenhouse 1976). Data further indicate that saltwater fish and invertebrates are equally sensitive to certain hydrazines (Ref. 13, Harrah 1977; Ref. 32, Wendler and Norris, 1985).

Hydrazines are recommended for ecological effects tests because they are produced in substantial quantities, there are uncertainties related to environmental releases and subsequent exposures to aquatic organisms, there are data indicating some hydrazines are highly toxic to aquatic organisms, and there are insufficient data to reasonably determine or predict ecological effects.

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f. Oxiranes

The Committee recommends oxiranes for ecological effects testing. The Committee's recommendation is based on concerns and uncertainties related to production, use, persistence, potential exposures and releases from production, processing and use, and the potential for causing ecological effects. Oxirane,

methyl oxirane and ethyl oxirane were designated for testing by the Committee in their 1st Report (Ref. 11, CEQ 1977); a number of oxiranes (listed as glycidyl ethers) were either designated by the Committee in their 3rd Report (Ref. 63, U.S. EPA 1978) or listed by EPA in their Advanced Notice of Proposed Rule Making for health effects testing (Ref. 65, U.S. EPA 1983). There is also one oxirane (glycidyl ether) that was not listed in the Committee's 3rd Report or by the EPA (CAS No. 6130–72–9, oxirane, 2,2,2-[1-propanyl-3-ylidenetris(4,1-phenyleneoxymethylene)] tetrakis). A brief examination of TSCA 8(d) ecological effects test submissions received in response to the health effects testing recommendations for these previously-recommended oxiranes suggested that they contained insufficient data to alleviate the ecological effects testing recommendations made in this ITC Report. Since ecological effects testing was not recommended for these previously-recommended oxiranes, they are being recommended for ecological effects testing at this time.

Annual production volumes of the oxiranes exceed 1 billion pounds. Occupational exposure estimates, available for 21 oxiranes, indicate that over 700,000 workers are potentially exposed to oxiranes at more than 26,000 facilities involved in their production, formulation and use (Ref. 43, NIOSH, 1989). Uncertainties associated with occupational exposure are unclear since there are no publicly-available exposure estimates for 27 oxiranes recommended for testing. OSHA occupational exposure standards exist for 8 oxiranes. Oxiranes are used as synthetic intermediates, in epoxy resins, and in a wide range of specialty applications, most of which have the potential for occupational exposures or environmental releases. Uncertainties associated with environmental exposure are unclear since only 5 oxiranes are on the TRI and there are no quantitative publicly-available effluent monitoring data available for oxiranes. The Committee hopes that manufacturers, processors, and users will respond to the voluntary solicitation for use, exposure/release data (described in Chapter 1 of this report) and that information submitted voluntarily will clarify uncertainties associated with use exposures and releases. The Committee recognizes that as a result of this recommendation, uncertainties related to exposure and release of oxiranes may be clarified after the Committee's review of the data obtained from the automatic 8(a) and 8(d) rules along with any other voluntary information submitted as a result of the request made in Chapter 1 of this report.

The Committee is recommending oxiranes for ecological effects testing to identify commercially important oxiranes that are likely to cause adverse ecological effects. The Committee is aware that some oxiranes have been tested for ecological effects; high to low toxicity was reported. The need for chemical fate or health effects testing of oxiranes was not considered by the Committee and is not recommended at this time, because they want to have an opportunity to review all of the non-public chemical fate and health effects data as well as the ecological effects data submitted under TSCA section 8(d) and to meet with any interested groups before determining which oxiranes should be tested. The Committee, however, is aware that some oxiranes are carcinogenic, mutagenic, have reproductive, developmental, and neurological effects, and severely damage lungs, liver, and kidneys. Submitted information is likely to be considered by a number of government agencies including EPA, DOT, DOI, and State and local governments involved with assessing the impact of chemical releases to the environment. The Committee makes non-CBI information available to the OECD and other international organizations to promote information exchange and to conserve chemical testing resources.

Summary of recommended studies. Testing recommendations for the 48 oxiranes listed in the paragraph following Table 1 are summarized in Table 1.

Physical and Chemical Information

The Committee has limited information on measured physical and chemical properties for oxiranes listed in the paragraph following Table 1: 20 boiling points, 1 Henry's Law constant, 6 log octanol/water partition coefficients, 10 melting points, 16 vapor pressures, and 10 water solubilities (Ref. 2, Aldrich 1988; Ref. 3, Aldrich 1990; Ref. 4, Bogyo et al. 1980; Ref. 5, Boublik et al. 1984; Ref. 12, Ciba-Geigy Corporation 1981; Ref. 13, Ciba-Geigy Corporation 1983; Ref. 14, Ciba-Geigy Corporation 1983; Ref. 20, Conway et al. 1983; Ref. 22, Daubert and Danner 1989; Ref. 23, Dow Chemical Company 1976; Ref. 28, Dow Corning Corporation 1983; Ref. 33, E.I. DuPont de Nemours & Company 1983; Ref. 35, Hansch and Leo 1985; Ref. 36, Hine 1958; Ref. 38, Lapkin 1965; Ref. 42, NIOSH 1978; Ref. 44, Osborn and Scott 1980; Ref. 45, Parker et al. 1978; Ref. 46, Resnick 1980; Ref. 47, Riesser 1979; Ref. 48, Sax and Lewis 1987; Ref. 49, Schultze 1965; Ref. 58, Sienel et al. 1987; Ref. 68, Windholz et al. 1983).

Rationale for Recommendation

A. *Exposure Information—Production/use/disposal/exposure/release.* The Committee believes that the oxiranes listed in the paragraph following Table 1 are commercially available, and that many are produced in substantial quantities. In 1989, 2.282 billion kilograms of oxirane were produced at 13 facilities in the United States (Ref. 67, USITC 1990). Actual production volumes of other oxiranes are CBI.

Oxiranes are an important group of industrial chemical intermediates. In 1990, oxirane was used in the production of ethylene glycol, 59 percent; nonionic surfactants, 13 percent; ethanolamines, 8 percent; glycol ethers, 6 percent; diethylene glycol, 6 percent; triethylene glycol, 2 percent; and miscellaneous uses (including polyethylene glycol production, urethane polyols production and exports), 6 percent (Ref. 18, CMR 1990). Other miscellaneous uses of oxirane include fumigant for spices, tobacco, furs, bedding, etc., a food and cosmetic sterilant, and in hospital sterilization (Ref. 4, Bogyo et al. 1980; Ref. 10, Cawse et al. 1980; Ref. 37, Howard et al. 1990). In 1990, methyl oxirane was used in the production of urethane polyether polyols, 60 percent (75 percent flexible foams, 15 percent rigid foams, and 10 percent for non-foam uses); propylene glycol, 20 percent; glycol ethers, 3 percent; miscellaneous uses (including the production of industrial polyglycols, surfactants and isopropanolamines), 5 percent; and exports, 12 percent (Ref. 19, CMR 1990a). Other oxiranes are used as intermediates and reactive diluents for epoxy resins, an intermediate for various polymers, stabilizers for chlorinated solvents, in the production of glycerol, unmodified epoxy resins, elastomers, to prepare acyl fluorides, fluoroketones, and fluorinated heterocycles, as sources of difluorocarbene for the synthesis of numerous cyclic and acyclic compounds, and products such as glycidyl ethers, epichlorohydrin-polyamide resins, and alkyl glycerol ether sulfonate salts (Ref. 46, Resnick 1980; Ref. 58, Sienel et al. 1987). For several oxiranes, no publicly-available use information was located (CAS numbers 81–21–0, 106–86–5, 106–87–6, 106–92–3, 122–60–1, 163–77–9, 286–20–4, 1686–14–2, 2386–87–0, 2425–79–8, 2426–08–6, 2451–62–9, 2461–15–6, 2530–83–8, 3130–19–6, 3388–03–2, 3388–04–3, 6130–72–9, 7320–37–8, 15336–82–0, 26447–

14–3, 26761–45–5, 61792–39–0, 62256–00–2 and 67860–05–3).

B. *Evidence for exposure—Human exposure.* The NOES conducted during 1981–1983 by NIOSH estimates that 238,209 workers were potentially exposed to methyl oxirane; 193,907 to ethyl oxirane; 56,052 to trimethoxy[3-(oxiranylmethoxy)propyl] silane; 50,130 to oxirane; 45,741 to (butoxymethyl) oxirane; 35,614 to (chloromethyl) oxirane; 23,811 to 2,2-[(1-methylethylidene)bis-(4,1-phenyleneoxymethylene)]bis oxirane; 14,725 to 7-oxabicyclo[4.1.0]heptane-3-carboxylic acid, 7-oxabicyclo[4.1.0]hept-3-ylmethyl ester; 11721 to [(2-ethylhexyl)oxy methyl] oxirane; 7,745 to trimethoxy[2-(7-oxabicyclo[4.1.0]hept-3-yl)ethyl] silane; 7,177 to (phenoxymethyl) oxirane; 4492 to [(methylphenoxy)methyl] oxirane; 4,260 to 7-oxabicyclo[4.1.0]heptane, 3-oxiranyl-; 3,167 to oxiranemethanol; 2,874 to 7-oxabicyclo[4.1.0]heptane; 2,751 to 2,2-[(2,2-dimethyl-1,3-propanediyl)bis(oxymethylene)]bis oxirane; 1,856 to 2,2-[1,3-phenylenebis-(oxymethylene)]bis oxirane; 1,433 to [(2-methylphenoxy)methyl] oxirane; 458 to phenyl oxirane; 413 to [(2-propenyloxy)methyl] oxirane; and 154 to [(1,1-dimethylethoxy)methyl] oxirane (Ref. 43, NIOSH 1989). Although its use as a sterilant is small, a high percentage of worker exposure results from the use of oxirane as a sterilant. OSHA estimates that the number of workers exposed to oxirane in various industries are: 3,676 during production and synthesis, 62,370 directly (25,000 indirectly) in sterilization at health care facilities, 14,000 directly (116,900 indirectly) in sterilization of medical products, and 160 during spice sterilization (Ref. 64, U.S. EPA 1983). In addition, some exposure survey results were: hospital sterilization chamber operators - 2.5 ppm TWA and medical products manufacturers 0.1–2 ppm 8 hr TWA (Ref. 64, U.S. EPA 1983).

C. *Environmental exposure.* According to the TRI, 4,702,454 pounds of oxirane, 4,200,883 pounds of methyl oxirane, 2,314 pounds of phenyl oxirane, 95,446 pounds of ethyl oxirane, and 474,052 pounds of (chloromethyl)oxirane were released to the environment in 1988 (Ref. 59, TRI 1990). Release to the environment is primarily associated with the production and use of oxiranes as chemical intermediates. Oxirane and methyl oxirane have been qualitatively detected in effluent from a chemical production facility in Brandenburg, KY in February, 1974, (chloromethyl)oxirane was qualitatively detected in industry effluent in Louisville, KY, and phenyl oxirane was found in effluent from the latex industry in Louisville, KY in March, 1974 and effluent from chemical production facilities in Collierville, TN, Louisville, KY and Memphis, TN in 1974 (Ref. 50, Shakelford and Keith 1976). 7-Oxa-bicyclo[4.1.0]heptane has been identified in 2 of 17 drinking water concentrates in the United States (Ref. 39, Lucas 1984).

I. Chemical Fate Information

Except for a search of readily available information relating to the persistence of oxiranes in aquatic systems, the need for chemical fate testing of oxiranes was not considered by the Committee and is not recommended at this time. The search for persistence data revealed that for many of the low molecular weight oxiranes, hydrolysis half-lives range from 4.4 days to 28 days, with an average of 14 days (Ref. 40, Mabey and Mill 1978). Higher molecular weight oxiranes would be expected to have longer hydrolysis half-lives.

II. Health Effects Information

Except for a search of a readily available information on oxiranes, which indicated that they may be carcinogenic, mutagenic, have reproductive, developmental, and neurological effects, and severely damage lungs, liver, and kidneys (Ref. 42, NIOSH 1978; Ref. 66, U.S. EPA, 1985), the need for health effects testing was not considered by the Committee and is not recommended at this time.

III. Ecological Effects Information

Available ecological effects data for 11 oxiranes indicate that acute aquatic toxicity LC_{50} values range of 3.5 to 349 mg/L. These include: oxirane (Ref. 60, Union Carbide Corporation 1983), methyl oxirane (Ref. 21, Crews 1974; Ref. 51, Shell Oil Company 1982a; Ref. 56, Shell Oil Company 1987), phenyl oxirane (Ref. 34, Geyer et al. 1985), (chloromethyl) oxirane (Ref. 1, Alabaster 1969; Ref. 6, Bringmann & Kuhn 1977; Ref. 7, Bringmann & Kuhn 1978; Ref. 8, Bringmann & Kuhn 1980a; Ref. 9, Bringmann & Kuhn 1980b; Ref. 15, Ciba Geigy Corporation 1984; Ref. 24, Dow Chemical Company 1982; Ref. 25, Dow Chemical Company 1987a; Ref. 26, Dow Chemical Company 1987b; Ref. 27, Dow Chemical Company 1987c; Ref. 41, Mayes et al. 1983; Ref. 51, Shell Oil Company 1982a), trifluoro(trifluoromethyl)oxirane (Ref. 29, E.I. Dupont de Nemours & Company, Inc. 1982a; Ref. 30, E.I. Dupont de Nemours & Company, Inc. 1982b; Ref. 31, E.I. Dupont de Nemours & Company, Inc. 1982c; Ref. 32, E.I. Dupont de Nemours & Company, Inc. 1982d;), 2,2-1,4-butanediylbis(oxymethylene) bisoxirane (Ref. 16, Ciba Geigy Corporation 1989a), (butoxymethyl) oxirane (Ref. 52, Shell Oil Company 1982c; Ref. 55, Shell Oil Company 1985; Ref. 59, Shell Oil Company 1990), (2-ethylhexyl) oxy methyloxirane (Ref. 51, Shell Oil Company 1982a; Ref. 53, Shell Oil Company 1982d), trimethoxy[3-(oxiranylmethoxy)propyl]-silane (Ref. 61, Union Carbide Corporation 1988; Ref. 62, Union Carbide Corporation 1989), (methylphenoxy)methyl-oxirane (Ref. 17, Ciba Geigy Corporation 1989b), and neodecanoic acid, oxiranylmethyl ester (Ref. 54, Shell Oil Company 1984).

Oxiranes are recommended for ecological effects tests because they are produced in substantial quantities, there are uncertainties related to environmental releases and subsequent exposures to aquatic organisms, and there are insufficient data to reasonably determine or predict ecological effects.

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g. Alkoxysilanes

The Committee recommends alkoxysilanes for ecological effects testing. The Committee's recommendation is based on concerns and uncertainties related to production, use, persistence, potential exposures and releases from production, processing and use, and the potential for causing ecological effects.

Annual production volumes of the alkoxysilanes exceed 10 million pounds. Occupational exposure estimates, available for 14 alkoxysilanes, indicate that 500,000 workers are potentially exposed to alkoxysilanes at almost 30,000 facilities involved in their production, formulation, and use (Ref. 5, NIOSH, 1989). Uncertainties associated with occupational exposure are unclear since there are no publicly-available exposure estimates for 25 alkoxysilanes recommended for testing. OSHA occupational exposure standards exist for only one of the alkoxysilanes. Alkoxysilanes are used as synthetic reagents, in polymers, and in many specialty applications, many of which have the potential for occupational exposures or environmental releases. Uncertainties associated with the uses of the individual alkoxysilanes are also unclear since use information is available for only 13 alkoxysilanes. Uncertainties associated with environmental exposure are unclear since none of the alkoxysilanes are on the TRI and there are no publicly-available effluent monitoring data.

The Committee hopes that manufacturers, processors, and users will respond to the voluntary solicitation for use, exposure, and release data (described in Chapter 1 of this report) and that information submitted voluntarily will clarify uncertainties associated with use, exposures, and releases. The Committee recognizes that as a result of this recommendation, uncertainties related to exposure and release of alkoxysilanes may be clarified after the Committee's review of the data obtained from the automatic 8(a) and 8(d) rules along with any other voluntary information submitted as a result of the request made in Chapter 1 of this report.

The Committee is recommending alkoxysilanes for ecological effects to identify commercially important alkoxysilanes that are likely to cause adverse ecological effects. The Committee is aware that one alkoxysilane has been tested for ecological effects; moderate toxicity was reported. The need for chemical fate and health effects testing of alkoxysilanes was not considered by the Committee and is not recommended at this time, because they want to have an opportunity to review all of the non-public chemical fate and health effects data as well as well as the ecological effects data submitted under TSCA section 8(d) and to meet with any interested groups before determining which alkoxysilanes should be tested. Submitted information is likely to be considered by a number of government agencies including EPA, DOT, DOI, and State and local governments involved with assessing the impact of chemical releases to the environment. The Committee makes non-CBI information available to the OECD and other international organizations to promote information exchange and to conserve chemical testing resources.

Summary of recommended studies. Testing recommendations for the 37 alkoxysilanes listed in the paragraph following Table 1 are summarized in Table 1. Two alkoxysilanes that also have an oxirane substructure are listed in the paragraph following Table 1. They are only listed with the oxiranes (numbers 90 and 94) to avoid duplicate listing. One alkoxysilane (number 120) also has a methyl ethylene glycol substructure; it is also only listed with the alkoxysilanes to avoid duplicate listing.

Physical and Chemical Information

The Committee has limited information on measured physical/chemical properties for the alkoxysilanes listed in the paragraph following Table 1: 9 boiling points, 4 melting points, and 2 vapor pressures (Ref. 1, Arkles 1982; Ref. 3, Boublik et al. 1984; Ref. 6, Ohe 1976). Some alkoxysilanes, particularly the lower molecular weight compounds (i.e., tetraethoxysilane (CAS No. 78–10–4) and tetramethoxysilane (CAS No. 681–84–5)) are expected to be susceptible to chemical hydrolysis whereas more highly branched alkoxysilanes are not (Ref. 1, Arkles 1982). Furthermore, the order of reactivity is expected to be: R3SiOR < R2Si(OR)2 < RSi(OR)3 < Si(OR)4 (Ref. 2, Baant and Chvalovsk 1965).

Rationale for Recommendation

A. *Exposure Information—Production/use/disposal/exposure/release.* The Committee believes that the alkoxysilanes listed in the paragraph following Table 1 are commercially available, and that many are produced in substantial quantities. Actual production volumes are CBI.

Alkoxysilanes are used in binders in foundry-mold sands for thin-shell castings, in binders for refractories, as resins, in coatings, in the preparation of specialty glasses for fiber optics and solar materials as well as low heat glasses, in the preparation of abrasion-resistant coatings for plastics and dielectric coatings for high temperature

electronic components, in the production of water repellents for protective and consolidating coatings for masonry and other applications, as cross linking agents, in coatings for liquid chromatography, and in thermal exchange applications such as solar panels (Ref. 1, Arkles 1982). For several alkoxysilanes, no publicly-available use information was located (CAS numbers 78–08–0, 919–30–2, 919–31–3, 1067–53–4, 1067–66–9, 1760–24–3, 2530–83–8, 2530–85–0, 2530–87–2, 2768–02–7, 3179–76–8, 3388–04–3, 4130–08–9, 4420–74–0, 5089–76–9, 6843–66–9, 3170–23–5, 13822–56–5, 17945–05–0, 18395–30–7, 18765–32–7, 23779–32–0, 26115–70–8, 29043–70–7, 33401–49–9, 35141–30–1, 40372–72–3 and 42965–91–3).

B. *Evidence for exposure—Human exposure.* The NOES conducted during 1981–1983 by NIOSH estimates that 5,270 workers were potentially exposed to ethenyltriethoxysilane; 1,298 to tetraethoxysilane; 19,175 to bis(1,1-dimethylethoxy)silyleneacetate (CAS No. 13170–23–5); 6,506 to phenyltriethoxysilane; 25,344 to 3-(triethoxysilyl)-1-propanamine (CAS No. 919–30–2); 3,358 to 6-ethenyl-6-(2-methoxyethoxy)-2,5,7,10-tetraoxa-6-silaundecane; 30,328 to methyltrimethoxysilane; 29,372 to *N*-(3-(trimethoxysilyl)propyl)-1,2-ethanediamine (CAS No. 1760–24–3); 3,474 to methyltriethoxysilane; 27,494 to methacryloxypropyltrimethoxysilane (CAS No. 2530–85–0); 7,744 to 3,4-epoxycyclohexylethyltrimethoxysilane (CAS No. 3388–04–3); 59,282 to methyltriacetoxysilane; 81 to 3-(trimethoxysilyl)-1-propanethiol (CAS No. 4420–74–0); and 8,172 to ethyltriacetoxysilane (Ref. 5, NIOSH 1989).

C. *Environmental exposure.* Information was not readily available.

I. Chemical Fate Information

The need for chemical fate testing of alkoxysilanes was not considered by the Committee and is not recommended at this time.

II. Health Effects Information

The need for health effects testing of alkoxysilanes was not considered by the Committee and is not recommended at this time.

III. Ecological Effects Information

Available aquatic toxicity data for one alkoxysilane (ethenylsilanetriol triacetate) (Ref. 4, Dow Corning Corp., 1986) indicate that it is moderately toxic to some aquatic organisms (LC_{50s} = 23 to <100 mg/L).

Alkoxysilanes are recommended for ecological effects tests because they are produced in substantial quantities, there are uncertainties related to environmental releases and subsequent exposures to aquatic organisms, and there are insufficient data to reasonably determine or predict ecological effects.

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h. Aldehyde hydrates

Summary of recommended studies. Testing recommendations for the two aldehyde hydrates listed in the paragraph following Table 1 are summarized in Table 1.

Rationale for Recommendation

In the 27th Report, the aldehydes were recommended for ecological effects testing. The Committee recognizes that certain aldehydes (i.e., ethanedial and trichloroacetaldehyde) react with water to form hydrates that these aldehydes are commercially important and that they should be tested for aquatic toxicity. For this reason, and for those enumerated in the recommendation of aldehydes in the 27th Report, the Committee is recommending aldehyde hydrates for ecological effects testing.

I. Chemical Fate Information

The need for chemical fate testing of aldehyde hydrates was not considered by the Committee and is not recommended at this time.

II. Health Effects Information

The need for health effects testing of aldehyde hydrates was not considered by the Committee and is not recommended at this time.

III. Ecological Effects Information

The Committee recommends ecological effects testing because there are insufficient data to reasonably determine or predict ecological effects.

i. Propylene Glycol Ethers and Esters.

The Committee is recommending propylene glycol ethers and esters for developmental and reproductive toxicity testing, because these chemicals are being manufactured and used to replace the ethylene glycol ethers and esters that do cause adverse reproductive and developmental effects. The Committee's recommendation is based on concerns and uncertainties related to production, use, persistence, potential exposures and releases from production, processing and use, and the potential for causing adverse health effects.

The Committee recognizes that glycol ethers are listed on the 1990 Clean Air Act Amendments; any inhalation testing recommendations to facilitate EPA's Reference Concentration (RfC) Workgroup's ability to establish RfC values will occur after the Committee has reviewed the non-public health and safety studies that will be submitted under TSCA section 8(d). The Committee also recognizes that the potential ability of propylene glycol ethers and esters to adversely affect reproductive systems may not be limited to mammals; any recommendations for fish partial or complete life cycle tests also will occur after the Committee has reviewed the non-public health and safety studies for the propylene glycol ethers and esters. The Committee recognizes that one propylene glycol ether, propanol,[(1-methyl,1,2-ethanediyl)bis(oxy)]bis (CAS 24800–44–0) is among the 53 chemicals in the Organization for Economic Cooperation and Development's (OECD) Screening Information Data Sets (SIDS) phase one voluntary testing program. Submission of reliable data or data development through the voluntary OECD SIDS program could change the Committee's testing recommendations for this propylene glycol ether. The Committee recognizes that NTP may test 1-methoxy-2-propanol and 1-(1,1-dimethylethoxy)-2-propanol (CAS numbers 107–98–2 and 57018–52–7) and that oxybispropanol (CAS number 25265–71–8) is being tested in prechronic toxicity studies. The Committee continues to work with the NTP to manage complimentary chemical testing programs.

Annual production volumes of the propylene glycol ethers and esters exceed 3 billion pounds. OSHA occupational exposure estimates, available for 13 propylene glycol ethers and esters, indicate that 3 million workers are potentially exposed to propylene glycol ethers and esters at more than 160,000 facilities involved in their production, formulation and use (Ref. 23, NIOSH, 1990). Uncertainties associated with occupational exposure are unclear since there are no publicly-available exposure estimates for 25 propylene glycol ethers and esters recommended for testing. Occupational exposure standards exist for one of the propylene glycol ethers and esters. Propylene glycol ethers and esters are used as solvents in numerous applications including solvents for fats, oils, waxes, acrylics, dyes, inks, and stains, in antifreeze solutions, coolants in refrigeration systems, plasticizers, hydraulic fluids, cutting oils, industrial soaps, surfactants, and deicing fluids used at airports, all of which have the potential for occupational exposures or environmental releases. Uncertainties associated with environmental exposure exist; none of the propylene glycol ethers and esters are on the TRI and there are few quantitative publicly-available monitoring data available for propylene glycol ethers and esters. The Committee hopes that manufacturers, processors, and users will respond to the voluntary solicitation for use, exposure, and release data (described in Chapter 1 of this report) and that information submitted voluntarily will clarify uncertainties associated with use, exposures, and releases. The Committee recognizes that as a result of this recommendation, the uncertainties related to exposure and release of propylene glycol ethers and esters may be clarified after the Committee's review of the data obtained from the automatic 8(a) and 8(d) rules along with any other voluntary information submitted as a result of the request made in Chapter 1 of this report.

The Committee is recommending propylene glycol ethers and esters for health effects testing to identify commercially important propylene glycol ethers and esters that are likely to cause adverse health effects. The need for chemical fate or ecological effects testing was not considered by and is not recommended for testing by the Committee at this time, because Committee Members want to have an opportunity to review all of the non-public chemical fate and ecological effects data as well as the health effects data submitted under TSCA section 8(d) and to meet with any interested groups before determining which propylene glycol ethers and esters should be tested. Submitted information is likely to be considered by a number of government agencies including CPSC, EPA, NIOSH, OSHA, and State and local governments involved with assessing the impact of chemical releases to the environment. The Committee makes non-CBI information available to the OECD and other international organizations to promote information exchange and to conserve chemical testing resources.

Summary of Recommended studies. Testing recommendations for the 38 propylene glycol ethers and esters listed in the paragraph following Table 1 are summarized in Table 1.

Physical and Chemical Information

The Committee has limited information on measured physical chemical properties for the propylene glycol ethers and esters listed in the paragraph following Table 1: 7 boiling points, 1 Henry's Law constant, 2 log octanol/water partition coefficients, 4 melting points, 5 vapor pressures, and 3 water solubilities (Ref. 1, Aldrich 1990; Ref. 2, Brown et al. 1980; Ref. 3, Butz et al. 1982; Ref. 7, Daubert and Danner 1989; Ref. 8, Dow Chemical Company 1981; Ref. 14, Hansch and Leo 1985; Ref. 24, Sax and Lewis 1987).

Rationale for Recommendation

A. *Exposure Information—Production/use/disposal/exposure/release.* The Committee believes that the propylene glycol ethers and esters listed in the paragraph following Table 1 are commercially available, and that many are produced in substantial quantities. For example, 1,2-propanediol and oxybis-propanol have current annual domestic production capacities of 935 million pounds and 98 million pounds, respectively (Ref. 25, SRI 1990). In 1989, five U.S. facilities produced 805,121,200 pounds of 1,2-propanediol and six facilities produced 1,868,992 pounds of octadecanoic acid monoester with 1,2-propanediol (Ref. 27, USITC 1990). In 1977, many of the chemicals were produced in quantities between 200,000 and 1,180,220,000 lbs per year (Ref 27, TSCAPP 1991). Ethoxy-1(or 2)-propanol acetate, 1(or 2)-2-methoxymethylethoxy propanol acetate, 2-(1-methyl-ethoxy)-1-propanol acetate, 1-ethoxy-2-propanol and 1,2-propanediol mono isopropyl ether do not appear in the TSCA inventory; however, the Committee has reason to believe that they are commercially produced in significant quantities (Ref. 4, Chemical Industry Notes 1991). Actual production volumes of the remaining propylene glycol ethers and esters are CBI.

Propylene glycol ethers and esters are used in a wide variety of industrial applications. These include their use as solvents (for fats, oils, waxes, resins, gums, cellulose acetate, acrylics, dyes, inks, stains, and in organic synthesis), in antifreeze solutions, and as reagents in synthetic processes, antioxidants, hydroscopic agents, bactericide, coolants in refrigeration systems, plasticizers, hydraulic fluids, textiles, dyes, lubricants, cutting oils, industrial soaps, surfactants, and deicing fluids used at airports. They also find use as solvents for flavoring extracts, perfumes, colors, and soft-drink syrups, and in foods as wetting agents, humectants, emulsifiers, feed additives, anticaking agents, preservatives and thickeners and they are used in cleansing creams, sun tan lotions, and lipsticks (Ref. 2, Brown et al. 1980; Ref. 3, Butz et al. 1982; Ref. 5, CMR 1990; Ref. 6, CMR 1990; Ref. 17, Isacoff 1979; Ref. 16, Jones 1978; Ref. 20, Kirk and Dempsey 1982; Ref. 22, Luck and Lipinski 1988; Ref. 24, Sax and Lewis 1987; Ref. 29, Windholz et al. 1983). For several propylene glycol ethers and esters, no publicly-available use information was located (CAS numbers 105–62–4, 108–65–6, 116–37–0, 923–26–2, 20324–32–7, 23436–19–3, 24800–44–0, 25498–49–1, 25584–83–2, 27813–02–1, 41395–83–9, 42978–66–5, 52305–09–6, 68171–38–0, 98516–30–4, and 88917–22–0)

B. *Evidence for exposure—Human exposure.* The NOES conducted during 1981–1983 by NIOSH estimates that 1,748,454 workers were potentially exposed to 1,2-propanediol; 303,895 to 2-propanol-1-methoxy acetate; 302,945 to 1-methoxy-2-propanol; 218,354 to oxybis-propanol; 130,409 to 2-(2-methoxymethylethoxy)methylethoxy propanol; 74,637 to (1-methyl-1,2-ethanediyl)bis(oxy) bis-propanol; 73,203 to propanol oxybis-dibenzoate; 61,597 to 2-methyl-2-propenoic acid monoester with 1,2-propanediol; 13,646 to octadecanoic acid monoester with 1,2-propanediol; 8,352 to 1-(2-methylpropoxy)-2-propanol; 5,575 to 1-(2-butoxyethoxy)-2-propanol; 5,167 to 1-(2-methoxy-1-methylethoxy)-2-propanol; 4,307 to nonanoic acid 1-methyl-1,2-ethanediyl ester; 3,110 to 1-propoxy-2-propanol; 2,961 to 1,1'-oxybis-2-propanol; 883 to (1-methyl-1,2-ethanediyl)bisoxy(methyl-2,1-ethanediyl) ester; and 51 to 2-propenoic acid monoester with 1,2-propanediol (Ref. 23, NIOSH 1990).

Evidence for exposure of the general population is found in a study in which 1-methyl-1 2-ethanediyl bis(oxy)bis-

propanol was qualitatively identified in one of eight personal air samples taken in New Jersey and North Carolina, 1980 (Ref. 28, Wallace et al. 1984). 2-(2-Methoxymethylethoxy)- methylethoxy propanol, oxybis-propanol, 1-methyl-1,2-ethanediyl bis(oxy)bis-propanol, 1-(2-methoxy-1-methylethoxy)-2-propanol 1-propoxy-2-propanol, 1,1'-oxybis-2-propanol and 1-methoxy-2-propanol have been qualitatively detected in U.S. drinking water supplies (Ref. 21, Lucas 1984).

C. *Environmental exposure.* 1,1'-Oxybis-2-propanol was qualitatively identified in groundwater samples obtained near a municipal solid waste landfill 1972–73 (Ref. 10, Dunlap et al. 1976; Ref. 111 Dunlap et al. 1976).

I. Chemical Fate Information

The need for chemical fate testing was not considered by the Committee and is not recommended at this time.

II. Health Effects Information

Inhalation teratology studies with rats and rabbits exposed to maximum concentrations of 3000 ppm 1-methoxy-2-propanol caused fetotoxicity in high-dose rats (increased incidence of delayed sternebral ossification), and no evidence of teratogenicity in either species (Ref. 9, Dow Chemical Company 1989). An inhalation reproduction study with rats produced no testicular effects in males exposed to maximum concentrations of 600 ppm 1-methoxy-2-propanol for 10 days and no reproductive or developmental effects in pregnant rats exposed to the same concentrations on gestation days 6 through 17 (Ref. 16, Imperial Chemical Industries 1989).

Oral exposure of pregnant mice on gestation days 8 through 12 to 10,000 mg/kg/day of 1,2-propanediol caused no reproductive or developmental effects (Ref. 19, Kavlock et al. 1987). Exposure to 1,2-propanediol at levels up to 5 percent in the drinking water produced no adverse effects on fertility and reproduction in adult or second generation male or female CD–1 mice (Ref. 13, Gulati et al. 1985). In a one dose (250 mg/kg/day by gavage) rat teratology screening study of 2-propenoic acid-(1-methyl-1,2-ethanediyl)bisoxy(methyl-2,1-ethanediyl), no maternal toxicity, or any effects on reproduction or development were reported (Ref. 15, Hazleton Laboratories 1987). Dermal application of up to 100 mg/kg/day of 1-butoxy-2-propanol to pregnant rabbits on gestation days 7 through 18 produced no maternal effects, embryo- or fetotoxicity (Ref. 12, Gibson et al. 1989).

No relevant data have been located for the following propylene glycol ethers and esters: 1-methyl-1,2-ethanediyl bis(oxy)bis-propanol; oxybis-propanol; 2-(2-methoxymethylethoxy)methylethoxy propanol; 2-propenoic acid monoester with 1,2-propanediol; propanol oxybis-dibenzoate; dodecanoic acid monoester with 1,2-propanediol; 2-methyl-2-propenoic acid monoester with 1,2-propanediol; methoxy-1-propanol; 1,2-propanediol mono isopropyl ether; 1-(2-butoxy-1-methylethoxy)-2-propanol; 1-ethoxy-2-propanol; tetrapropenylbutanedioic acid monoester with 1,2-propanediol; 1-(1-methyl- ethoxy)-2-propanol acetate; 1-(1,1-dimethylethoxy)-2-propanol; propanol, 1(or 2)-2-methoxymethyl-ethoxy acetate and ethoxy-1(or 2)-propanol acetate.

Propylene glycol ethers and esters are recommended for health effects testing because they are produced in substantial quantities, there are uncertainties related to environmental releases and subsequent exposures to humans, there are data indicating some glycol ethers and esters produce reproductive and developmental effects and there are insufficient data to reasonably determine or predict the health effects of the propylene glycol ethers and esters. The Committee recommends developmental toxicity and reproductive effects testing of propylene glycol ethers and esters for which there are no adequate data; these are listed in the paragraph following Table 1. In addition, both developmental toxicity and reproductive effects testing is recommended for 2-propenoic acid-(1-methyl-1,2-ethanediyl)bisoxy(methyl-2,1-ethanediyl) and 1-butoxy-2-propanol because existing data are inadequate. The Committee recognizes there are adequate existing developmental toxicity data for 1-methoxy-2-propanol, but recommends reproductive effects testing. The Committee recognizes there are adequate existing developmental toxicity and reproductive effects data on mice for 1,2-propanediol, but recommends developmental testing in a second mammalian species.

III. Ecological Effects Information

The need for ecological effects testing was not considered by the Committee and is not recommended at this time.

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j. Methyl ethylene glycol ethers

The Committee is recommending methyl ethylene glycol ethers for developmental and reproductive toxicity testing. The Committee's recommendation is based on concerns and uncertainties related to production, use, persistence, potential exposures and releases from production, processing and use, and the potential for causing adverse health effects. The Committee is not recommending triethylene glycol monomethyl ether in its list of methyl ethylene glycol ethers, because it was designated for health effects testing on May 2, 1985 as one of three triethylene glycol ethers and EPA published a consent order for health effects testing on April 3, 1989.

The Committee recognizes that glycol ethers are listed on the 1990 Clean Air Act Amendments; any recommendations of comparative oral and inhalation pharmacokinetics, subchronic inhalation testing, etc. to facilitate EPA's Reference Concentration RfC) Workgroup's ability to establish RfC values will occur after the Committee has reviewed the non-public health and safety studies that will be submitted under TSCA section 8(d). The Committee also recognizes that the potential ability of methyl ethylene glycol ethers to adversely affect reproductive systems may not be limited to mammals; any recommendations for fish partial or complete life cycle tests also will occur after the Committee has reviewed the non-public health and safety studies for the methyl ethylene glycol ethers.

Annual production volumes of the methyl ethylene glycol ethers exceed 2 billion pounds. Occupational exposure estimates, available for 2 methyl ethylene glycol ethers, indicate that over 4,500 workers are potentially exposed to methyl ethylene glycol ethers at more than 20 facilities involved in their production, formulation and use (Ref. 21, NIOSH, 1989). Uncertainties associated with occupational exposure are unclear since there are no publicly-available exposure estimates for 9 methyl ethylene glycol ethers recommended for testing. No OSHA occupational exposure standards exist for methyl ethylene glycol ethers. Methyl ethylene glycol ethers are used as solvents in numerous applications including paints and inks and in hydraulic fluids, all of which have the potential for occupational exposures or environmental releases. Uncertainties associated with environmental exposure are unclear since none of the methyl ethylene glycol ethers are on the TRI and there are few quantitative publicly-available monitoring data for methyl ethylene glycol ethers. The Committee hopes that manufacturers, processors, and users will respond to the voluntary solicitation for use, exposure, and release data (described in Chapter 1 of this report) and that information submitted voluntarily will clarify uncertainties associated with use, exposures, and releases. The Committee recognizes that as a result of this recommendation, the uncertainties related to exposure and release of methyl ethylene glycol ethers may be clarified after the Committee's review of the data obtained from the automatic 8(a) and 8(d) rules along with any other voluntary information submitted as a result of the request made in Chapter 1 of this report.

The Committee is recommending methyl ethylene glycol ethers for health effects testing to identify commercially important methyl ethylene glycol ethers that are likely to cause adverse health effects. The need for chemical fate or ecological effects testing was not considered by and is not recommended for testing by the Committee at this time, because they want to have an opportunity to review all of the non-public chemical fate and ecological effects data as well as the health effects data submitted under TSCA section 8(d) and to meet with any interested groups before determining which methyl ethylene glycol ethers should be tested. Submitted information is likely to be considered by a number of government agencies including CPSC, EPA, NIOSH, OSHA and State and local governments involved with assessing the impact of chemical releases to the environment. The Committee makes non-CBI information available to the OECD and other international organizations to promote information exchange and to conserve chemical testing resources.

Summary of recommended studies. Testing recommendations for the 10 methyl ethylene glycol ethers listed in the paragraph following Table 1 are summarized in Table 1.

Physical and Chemical Information

The Committee has very limited information on measured physical chemical properties for the methyl ethylene glycol ethers listed in the paragraph following Table 1: 2 melting points, 2 boiling points, and 1 water solubility value (Ref. 1, Brown et al. 1980; Ref. 24, Windholz et al. 1983).

Rationale for Recommendation

A. *Exposure Information—Production/use/disposal/exposure/release.* The Committee believes that the methyl ethylene glycol ethers listed in the paragraph following Table 1 are commercially available, and that many are produced in substantial quantities. Actual production volumes are CBI.

Methyl ethylene glycol ethers are used mainly as solvents. Large volumes of these compounds may be used industrially as solvents for resins in surface coatings, inks, and adhesives; as ingredients in hydraulic brake fluids; as dye solvents in textile and leather applications; as coupling solvents in a variety of chemical specialties, as intermediates in the production of plasticizers and other solvents; and as a copolymer in the rubber industry (Ref. 6, Chemcyclopedia 1986; Ref. 7, Dow

Chemical Company 1981; Ref. 23, Vail 1979). For several methyl ethylene glycols ethers, no publicly-available use information was located (CAS No. 1067–53–4, 1616–88–2, 10143–22–3, 23783–42–8, 35633–50–2, 54303–31–0, 65059–45–2 and 68957–67–5).

B. *Evidence for exposure—Human exposure.* The NOES conducted during 1981–1983 by NIOSH estimates that 1,220 workers were exposed to ethylene glycol monomethyl ether acrylate; and 3,361 to 6-ethenyl-6-(2-methoxyethoxy)-2,5,7,10-tetraoxa-6-silaundecane (Ref. 21, NIOSH 1989).

C. *Environmental exposure.* In a study of the waste disposal site "Valley of the Drums" in Louisville, KY, tetraethylene glycol dimethyl ether was detected in surface run-off and in the settling basin at concentrations of 27 and 3.7 ppm, respectively (Ref. 22, Stonebraker and Smith 1980).

I. Chemical Fate Information

The need for chemical fate testing was not considered by the Committee and is not recommended at this time.

II. Health Effects Information

The Committee is aware that there are extensive data demonstrating that ethylene glycol monomethyl ether is both a developmental and testicular toxicant in laboratory animals (Ref. 12, Hardin 1989). The ultimate toxic agent is methoxyacetic acid (Ref. 1, Brown et al. 1980; Ref. 2, Brown et al. 1984; Ref. 11, Foster et al. 1983; Ref. 16, Miller et al. 1982; Ref. 17, Miller et al. 1983) which is produced when ethylene glycol monomethyl ether is metabolically oxidized to methoxyacetaldehyde by alcohol dehydrogenase and subsequently to the acid by aldehyde dehydrogenase (Ref. 16, Miller et al. 1982; Ref. 17, Miller et al. 1983). The Committee believes that the methyl ethylene glycol ethers listed in the paragraph following Table 1 may be metabolically cleaved to ethylene glycol monomethyl ether, which will then be oxidized to methoxyacetic acid.

The antifertility action of ethylene glycol monomethyl ether (EGME) is well documented in studies with mice and rats. Oral administration of 250 mg/kg/day, 5 days/week, for 5 weeks produced testicular atrophy in mice (Ref. 18, Nagano et al. 1979), as did inhalation exposure of rats to 300 ppm for 6 hours/day, 5 days/week, for 2 weeks (Ref. 13, Lee et al. 1989) and similar exposures of rats and mice to 1000 ppm EGME, 6 hours/day for 9 days over an 11–day period (Ref. 15, Miller et al. 1981).

Several additional methyl ethylene glycol ethers are known to adversely affect reproduction (via testicular function). Testicular atrophy was observed in: 1) mice orally administered 500 mg/kg/day ethylene glycol monomethyl ether acetate (EGMEA), 5 days/week, for 5 weeks (Ref. 18, Nagano et al. 1979), 2) mice similarly administered 62.5 mg/kg EGMEA (Ref. 19, Nagano et al. 1984), 3) mice orally administered 250 mg/kg/day ethylene glycol dimethyl ether (EGDME), 5 days/week for 5 weeks (Ref. 19, Nagano et al. 1984), 4) rats orally administered 684 mg/kg/day diethylene glycol dimethyl ether (DGDME) for 18 days (Ref. 5, Cheever et al. 1989), 5) rats orally administered 1/2 of the LD50 (value not reported) of diethylene glycol monomethyl ether (DEGME), 5 days/week, for 6 weeks (Ref. 9, Eastman Kodak Company 1981), 6) rats administered single oral doses of 1500 mg/kg/day 1,2-benzene dicarboxcylic acid, bis (2-methoxy ethyl) ester (DMEP) (Ref. 4, Cassidy et al. 1983), and 7) rats exposed by inhalation to 110 ppm DGDME for 6 hours/day, 5 days/week, for 2 weeks (Ref. 13, Lee et al. 1989). Increased frequencies of abnormally formed sperm were seen in mice following vapor exposure to 500 ppm EGME, 7 hours/day, for 5 days (Ref. 14, McGregor 1981) and in rats following single oral doses of 1500 mg/kg/day DMEP (Ref. 4, Cassidy et al. 1983).

Studies of several methyl ethylene glycol ethers demonstrated developmental toxicity in mice, rats and rabbits. Oral administration of 125 mg/kg/day EGME to pregnant mice on gestation days 7 through 14 caused decreased fetal body weight, and 250 mg/kg/day decreased the number of live fetuses/litter; dose-related increased incidence of gross and skeletal anomalies were noted at 31.25 mg/kg/day and higher. Oral administration of 350 mg/kg/day EGDME to mice on gestation days 7 to 10 increased gross and skeletal malformations (Ref. 19, Nagano et al. 1984). Inhalation exposure of pregnant rats to 50 ppm EGME or 200 ppm EGMEA for 7 hours/day on gestation days 7 through 15 caused reduced fetal weights, and skeletal and cardiovascular defects (Ref. 20, Nelson et al. 1984). Inhalation exposure of rat dams to 25 to 400 ppm DGDME for 6 hours/day, on gestation days 7 through 16, led to dose-related decreased fetal body weight and increased skeletal abnormalities (Ref. 10, E.I. Dupont de Nemours & Company 1988). Dermal application of 50 to 750 mg/kg/day DEGME to pregnant New Zealand white rabbits on gestation days 6 through 18 produced dose-related skeletal defects, and increased embryonic resorptions in the 750 mg/kg/day group (Ref. 8, Dow Chemical Company 1989). Single intraperitoneal injections of 2.49 ml/kg bw of DMEP into pregnant rats resulted in fetal deaths when injected on gestation days 8 or 10; when injected on gestation days 12 or 14, most fetuses remained viable but showed increased incidence of abnormalities in the kidney and bladder (Ref. 3, Campbell et al. 1984).

Methyl ethylene glycol ethers are recommended for health effects tests because they are produced in substantial quantities, there are uncertainties related to environmental releases and subsequent exposures to humans, there are data indicating some methyl ethylene glycol ethers produce reproductive and developmental effects, and there are insufficient data to reasonably determine or predict the health effects of the other methyl ethylene glycol ethers. Developmental toxicity and reproductive effects tests are recommended only for the methyl ethylene glycol ethers that do not have adequate test data; these are listed in the paragraph following Table 1.

III. Ecological Effects Information

The need for ecological effects testing was not considered by the Committee and is not recommended at this time.

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k. Isothiocyanates

In the 26th ITC Report, isocyanates were recommended for testing because there were insufficient data to reasonably determine or predict physical and chemical properties and persistence (55 FR 23050, June 5, 1990). Isothiocyanates are structurally and chemically related to isocyanates and there are no readily-available data on persistence.

The Committee's recommendation is based on a number of concerns and uncertainties related to potential exposures and releases from production, processing and use. For these reasons, and for those enumerated for isocyanates in the 26th Report, the Committee is recommending persistence testing for isothiocyanates. The need for health and ecological effects testing of the isothiocyanates was not considered by the Committee and is not recommended at this time, because they want to have an opportunity to review all of the non-public health and ecological effects data submitted under TSCA section 8d) and to meet with any interested groups before determining which isothiocyanates should be tested.

Summary of Recommended Studies. Testing recommendations for the two isothiocyanates listed in the paragraph following Table 1 are summarized in Table 1.

Physical and Chemical Information

A search for measured physical and chemical property data for the isothiocyanates revealed the following information:

Allyl isothiocyanate, also known as allyl isosulfocyanate and mustard oil, is a colorless or pale yellow, very pungent liquid with an irritating odor and an acrid taste (Ref. 6, Windholz et al. 1983). It has a melting point of −80° C (Ref. 3, Dean 1985), a boiling point of 152° C (Ref. 4, Sax and Lewis 1987), a vapor pressure of 3.70 mm Hg at 20° C (Ref. 2, Boublik et al. 1984) and a water solubility of 2000 mg/L at 20° C (Ref. 7, Yalkowsky 1989).

Phenyl isothiocyanate, also known as thiocarbanil and phenyl mustard oil, is a pale yellow or colorless liquid with a penetrating and irritating odor (Ref. 6, Windholz et al. 1983). It has a melting point of −21° C (Ref. 6, Windholz et al. 1983), a boiling point of 221° C (Ref. 6, Windholz et al. 1983), a vapor pressure of 1.5 mm Hg at 25° C (Ref. 2, Boublik et al. 1984) and a water solubility of 89.9 mg/L at 20° C (Ref. 7, Yalkowsky 1989).

Rationale for Recommendation

A. *Exposure Information—Production/use/disposal/exposure/release.* The Committee believes that the isothiocyanates listed in the paragraph following Table 1 are commercially available, and that they are produced in substantial quantities; actual volumes are CBI.

Allyl isothiocyanate occurs naturally in mustard oil and horseradish (Ref. 1, Bauer et al. 1988; Ref 5, Shipe and Olentine 1988). Due to its unique odor and taste, allyl isothiocyanate is prepared synthetically in large quantities as a flavor and fragrance (Ref. 1, Bauer et al. 1988). It is also used in ointments and mustard plasters (Ref. 4, Sax and Lewis 1987). Phenyl isothiocyanate is used in medicine and in organic synthesis (Ref. 4, Sax and Lewis 1987).

I. Chemical Fate Information

The Committee has no experimental data on the chemical fate of isothiocyanates. The Committee believes that hydrolysis may be the most important process influencing the fate of isothiocyanates and is recommending persistence testing because there are insufficient data to reasonably determine or predict the chemical fate of isothiocyanates.

II. Health Effects Information

The need for health effects testing was not considered by the Committee and is not recommended at this time.

III. Ecological Effects Information

The need for ecological effects testing was not considered by the Committee and is not recommended at this time.

References

(1) Bauer, K., Garbe, D., and Sturburg, H. "Flavors and Fragrances" In: *Ullmann's Encyclopedia of Industrial Chemistry*. 5th edition. Gerhartz, W., and Yamamoto, Y.S., eds. Deerfield Beach, FL: VCH Publishers. A11: 141–250 (1989).

(2) Boublik, T., Fried, V., and Hala, E. "The Vapor Pressure of Pure Substances: Selected Values of the Temperature Dependence of the Vapor Pressures of Some Pure Substances in the Normal and Low Temperature Region." Volume 17. Amsterdam, Netherlands: Elsevier Science Publications. pp. 119, 232 & 538 (1984).

(3) Dean, J.A. *Lange's Handbook of Chemistry*. 13th edition. New York, NY: McGraw-Hill Book Co. pp. 7–94 (1985).

(4) Sax, N.I., and Lewis, R.J. *Hawley's Condensed Chemical Dictionary*. 11th edition. New York, NY: Van Nostrand Reinhold Company. pp. 40, 538 (1987).

(5) Shipe, W.F., and Olentine, C.G. "Food. 1. Survey." In: *Ullmann's Encyclopedia of Industrial Chemistry*. 5th Edition. Gerhartz, W., and Yamamoto, Y.S., eds. Deerfield Beach, FL: VCH Publishers. A11: 491–521 (1988).

(6) Windholz, M., Budavari, S., Blumetti, R.F., and Otterbein, E.S. *The Merck Index*. 10th edition. Rahway, NJ: Merck & Co., Inc. pp. 289, 1052 (1983).

(7) Yalkowsky, S.H. Arizona Database of Aqueous Solubility. Tucson, AZ: College of Pharmacy, University of Arizona (1989).

I. Cyanoacrylates

The Committee is recommending cyanoacrylates for physical and chemical property testing. The Committee's recommendation is based on concerns and uncertainties related to production and use, potential exposures and releases from production, processing and use.

Annual production volumes of the cyanoacrylates exceed 1 million pounds. Occupational exposure estimates, available for one cyanoacrylate, indicate that over 51,000 workers are potentially exposed at over 1400 facilities involved in its production, formulation, and use (Ref. 1, NIOSH, 1989). Uncertainties associated with occupational exposures are unclear since there are no publicly-available exposure estimates for 10 of the cyanoacrylates recommended for testing. OSHA occupational exposure standards exist for one cyanoacrylate. The cyanoacrylates are used for fast bonding in numerous applications, all of which have the potential for occupational exposures or environmental releases. Uncertainties associated with environmental releases are unclear since none of the cyanoacrylates are on the TRI and there are no publicly-available effluent monitoring data for any of the cyanoacrylates. The Committee hopes that manufactures, processors, and users will respond to the voluntary solicitation for use, exposure, and release data (described in Chapter 1 of this Report) and that information submitted voluntarily will clarify uncertainties associated with use, exposures, and releases. The Committee recognizes that as a result of this recommendation, the uncertainties related to exposure and release of cyanoacrylates may be clarified after the Committee's review of the data obtained from the automatic 8(a) and 8(d) rules along with any other voluntary information submitted as a result of the request made in Chapter 1 of this report.

The Committee is recommending cyanoacrylates for physical and chemical property testing to identify commercially important cyanoacrylates that need a minimum amount of physical and chemical property data. The Committee has not considered health or ecological effects of cyanoacrylates at this time, because they want to have an opportunity to review all of the non-public health and ecological effects data as well as chemical fate data, submitted under TSCA section 8(d) and to meet with any interested groups before determining which cyanoacrylates should be tested. Submitted information is likely to be considered by a number of government agencies including EPA, CPSC, NCI, NIOSH, OSHA, and State and local governments involved with assessing the impact of chemical releases to the environment. The Committee makes non-CBI information available to the OECD and other international organizations to promote information exchange and to conserve chemical testing resources.

Summary of recommended studies. Testing recommendations for the 11 cyanoacrylates listed in the paragraph following Table 1 are summarized in Table 1.

Physical and Chemical Information

The Committee has very limited information on measured physical and chemical properties for the cyanoacrylates listed in the paragraph following Table 1: 7 boiling points, and 4 vapor pressures (Ref. 2, Ohara et al. 1985; Ref. 4, Sax and Lewis 1987)

Rationale for Recommendation

A. *Exposure Information—Production/use/disposal/exposure/release.* The Committee believes that the cyanoacrylates listed in the paragraph following Table 1 are commercially available, and that many are produced in substantial quantities. Actual production volumes are CBI.

Cyanoacrylates are used for fast bonding applications, in dentistry, textile finishes and sizes, copolymers for viscosity index improvers, mounting jewelry, and in tissue adhesives in surgery (Ref. 2, Ohara et al. 1985; Ref. 4, Sax and Lewis 1987, Ref. 6, Windholz et al. 1983).

I. Chemical Fate Information

Except for those listed above, the Committee has no information on measured physical and chemical properties for the cyanoacrylates listed in the paragraph following Table 1.

Cyanoacrylates are recommended for physical and chemical property tests because they are produced in substantial quantities, there are uncertainties related to occupational and consumer exposures or environmental release, and there are insufficient data to reasonably determine or predict physical and chemical properties.

II. Health Effects Information

Except for a search of readily available literature, the need for health effects testing was not considered by the Committee and is not recommended at this time. The search revealed that five cyanoacrylates are mutagenic to bacteria; rats exposed by implantation to one cyanoacrylate developed sarcomas, and rats exposed to a cyanoacrylate had a 1-hour inhalation LC_{50} of <4129 ppm (Ref. 3, RTECS 1991; Ref. 5, Toxline 1991).

III. Ecological Effects Information

The need for ecological effects testing was not considered by the Committee and is not recommended at this time.

References

(1) NIOSH (National Institute for Occupational Safety and Health). National Occupational Exposure Survey (NOES) (1989).

(2) Ohara, T., Sato, T., Shimizu, N., Prescher, G., Schwind, H., Weiberg, O., Martin, K. "Acrylic acid and derivatives." In: *Ullmann's Encyclopedia of Industrial Chemistry*. 5th Edition. Gerhartz, W., and Yamamoto, Y.S., Eds. Deerfield Beach, FL: VCH Publishers. A1: 161–176. (1985).

(3) RTECS (Registry of Toxic Effects of Toxic Substances). On-line data base. (1991).

(4) Sax, N.I., and Lewis, R.J. *Hawley's Condensed Chemical Dictionary*. 11th edition. New York, NY: Van Nostrand Reinhold Company. pp. 40, 864, 903, 905, 907 (1987).

(5) Toxline. On-line data base. (1991).

(6) Windholz, M., Budavari, S., Blumetti, R.F., and Otterbein, E.S. *The Merck Index*. 10th edition. Rahway, NJ: Merck & Co., Inc. pp. 201, 824 (1983).

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Monday
August 19, 1991

Part X

Department of Education

34 CFR Part 300

Assistance to States for Education of Handicapped Children; Notice of Proposed Rulemaking

DEPARTMENT OF EDUCATION

34 CFR Part 300

RIN 1820-AA89

Assistance to States for Education of Handicapped Children

AGENCY: Department of Education.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Secretary proposes to amend the regulations implementing the Assistance to States for Education of Handicapped Children program authorized by part B of the Individuals with Disabilities Education Act (part B).

Proposed regulatory changes are needed to implement changes in part B made by the Education of the Handicapped Act Amendments of 1990 (1990 Amendments), to address another statutory amendment, and to make changes based on the Department's experience in administering this program. These proposed regulations would: Add new definitions; add new provisions on transition services and procedural safeguards; revise certain State plan requirements; and add complaint procedures similar to those in the Education Department General Administrative Regulations.

DATES: All comments must be received on or before November 18, 1991.

ADDRESSES: All comments concerning these proposed regulations should be addressed to Ms. Lucille Sleger, Program Administration Branch, Division of Assistance to States, Office of Special Education Programs, Department of Education, 400 Maryland Avenue, SW., Switzer Building, room 3615, Washington, DC 20202-2720; telephone: (202) 732-1104; individuals with deafness or hearing impairments may call (202) 732-1090 for TDD services.

A copy of any comments that concern information collection requirements should also be sent to the Office of Management and Budget at the address listed in the Paperwork Reduction Act section of this preamble.

FOR FURTHER INFORMATION CONTACT: Ms. Rhonda Weiss, Program Administration Branch, Division of Assistance to States, Office of Special Education Programs, Department of Education, 400 Maryland Avenue, SW., Switzer Building, room 3617, Washington, DC 20202-2720; telephone: (202) 732-1375; (202) 732-1090 for TDD services.

SUPPLEMENTARY INFORMATION: Part B authorizes formula grants to States and, through States, to local educational agencies and intermediate educational units to assist them in meeting the special educational needs of children with 1 or more of 13 specified disabilities. In order to be eligible for funding under this program, State educational agencies, local educational agencies, and intermediate educational units are responsible for ensuring that all children with disabilities have available to them a free appropriate public education, and that the procedural protections set forth in part B are extended to these children and their parents.

The Secretary proposes to make a number of changes in 34 CFR part 300 to implement the substantive changes in part B made by the 1990 Amendments. In addition, the Secretary proposes to make other substantive regulatory changes to reflect another statutory amendment to part B, and changes based on the Department's experience in administering this program. Major proposed regulatory changes are discussed below.

The Secretary will make all technical changes in the current regulations, including technical changes to implement the changes in part B made by the 1990 Amendments, when the final regulations for this program are issued. Examples of technical changes include: Deleting all references to "handicapped children" in the current regulations and substituting the revised statutory term "children with disabilities"; deleting all references to "annual program plan" in the current regulations and substituting "State plan"; and updating the current regulations referencing other Federal education laws to conform to statutory amendments.

I. Proposed Regulatory Changes to Implement the 1990 Amendments

A. Definitions of Autism and Traumatic Brain Injury

Section 602(a)(1) of the Individuals with Disabilities Education Act (Act) now designates "autism" and "traumatic brain injury" as separate disability categories in the definition of "children with disabilities," and paragraph (a) of the regulatory definition of "handicapped children" as 34 CFR 300.5 is amended to reflect this statutory change. The new paragraphs (b)(1) and (b)(12) of § 300.5 also add proposed definitions of "autism" and "traumatic brain injury." The proposed definition of the disability category "autism" in the new § 300.5(b)(1) applies to children with a developmental disability that significantly affects verbal and non-verbal communication and social interaction, that is generally evident before age three, and that adversely affects educational performance. The Secretary emphasizes that the reference to age three in the definition was included because this is the accepted definition of autism used by most special educators and medical and health professionals. However, nothing in the proposed definition is intended to preclude a diagnosis of autism if the child manifests the condition after age three. Thus, under the proposed definition, a child who manifests characteristics of the condition after age three still can be diagnosed as having autism, and a comment to this effect has been added following proposed § 300.5. Based on the legislative history of the 1990 Amendments, the Secretary proposes that the definition of "autism" not include children with characteristics of "serious emotional disturbance," as that disability category is defined at § 300.5(b)(8) of the current regulations, redesignated as § 300.5(b)(9). In accordance with this statutory change, paragraph (b)(7)(i) of § 300.5 of the current regulations, redesignated as proposed § 300.5(b)(8)(i), which includes children with an "autistic condition" under "other health impaired," has been deleted.

The proposed definition of the disability category "traumatic brain injury" in proposed § 300.5(b)(12) applies to children with brain injuries caused by an external physical force, or by an internal occurrence such as stroke or aneurysm, with resulting impairments that adversely affect educational performance. The term includes children with open or closed head injuries, but does not include children with brain injuries that are congenital or degenerative or caused by birth trauma.

B. New Related Services

1. Social Work Services

The statute now specifies that social work services are an eligible related service under this program. A definition of "social work services in schools" was previously included at § 300.13(b)(11) of the current regulations for this program. In light of the statutory amendment, the Secretary proposes to delete the reference to "in schools" so as to broaden the scope of eligible social work services under this program, but otherwise proposes to retain the existing definition at the redesignated proposed § 300.13(b)(12). However, the Secretary has included the complete regulatory definition, with the deletion of "in schools" in these proposed regulations, and invites public comment on whether this definition should be retained or whether additional regulatory guidance should be provided.

2. Rehabilitation Counseling Services

The new proposed paragraph (b)(10) of § 300.13 adds a definition of "rehabilitation counseling services" to implement the statutory amendment to the definition of related services in section 602(a)(17) of the Act. The Secretary proposes to define "rehabilitation counseling services" as counseling services provided by a qualified rehabilitation counseling professional that are intended to explore the effect of the student's disability on employment and other post-school activities. Based on discussions in the legislative history indicating congressional intent that other agencies should not be relieved of their responsibility for providing rehabilitation services to eligible students with disabilities, the proposed definition includes those services provided to students with disabilities by vocational rehabilitation programs funded under the Rehabilitation Act of 1973, as amended.

C. Assistive Technology Devices and Services

In proposed §§ 300.16–300.17, the Secretary adopts the statutory definitions of the terms "assistive technology device" and "assistive technology service" in section 602(a)(25)–(a)(26) of the Act, but has substituted "child with a disability" for the statutory reference to "individual with a disability" in accordance with part B. The definitions of "assistive technology device" and "assistive technology service" in the Act are taken directly from the Technology-Related Assistance for Individuals with Disabilities Act of 1988, and a comment has been added following proposed § 300.17 to this effect. Because the Secretary believes that the role assistive technology devices and services in the education of children with disabilities needs to be addressed, proposed § 300.308 has been added. This section provides that if a child with a disability requires assistive technology devices or services, or both, in order to receive a free appropriate public education, the public agency shall ensure that the assistive technology devices or services are made available to that child, either as special education, related services, or as supplementary aids and services that enable a child with a disability to be educated in regular classes. Determinations of whether a child with a disability requires assistive technology devices or services under this program must be made on an individual basis through applicable individualized education program (IEP) and placement procedures. The Secretary invites public comment on whether additional guidance is needed on the provision of assistive technology devices or services to children with disabilities under this part.

D. Transition Services

In proposed § 300.18, the Secretary adopts the definition of "transition services" in section 602(a)(19) of the Act, which defines "transition services" as "a coordinated set of activities * * * to facilitate movement from school to post-school activities." Since the statutory definition specifies a range of services that could constitute transition services, the Secretary proposes in the comment following § 300.18 that transition services may be provided to eligible students with disabilities either as special education, if they are specially designed instruction, or as related services, if they are required to assist a child with a disability to benefit from special education.

In addition, the Secretary proposes to amend the current regulations governing IEPs to include the new statutory requirements regarding transition services and to provide additional regulatory guidance on agency responsibility for providing and paying for needed transition services to students with disabilities.

Section 300.346 of the current regulations is amended by adding a new proposed paragraph (d) to incorporate the new statutory provision that a statement of needed transition services must be included in the IEPs of students with disabilities aged 16 and older, and, to the extent appropriate, in the IEPs of students with disabilities aged 14 and younger. In accordance with the statute, proposed paragraph (d) provides that this statement also must include, if appropriate, a statement of interagency responsibilities or linkages if a State or local agency, other than the public agency responsible for the student's education, is responsible for providing or paying for needed transition services.

Paragraph (a) of the new proposed § 300.347 incorporates the statutory provision that if a participating agency, other than the public agency responsible for the student's education, has failed to provide agreed upon transition services, the public agency responsible for the student's education shall reconvene a meeting of the participants on the IEP team to identify alternative strategies to meet the transition objectives in the student's IEP. The Secretary has added the language "to be implemented" following the reference to alternative strategies so that the public agency responsible for the student's education will take the necessary steps to ensure that each child with a disability receives needed transition services if another State or local agency has failed to provide the student with the agreed upon transition services in the student's IEP. In addition, to ensure that other State or local agencies provide transition services to students with disabilities for which they are fiscally and legally responsible, the Secretary proposes to add paragraph (c) to § 300.347. This proposed paragraph clarifies that nothing in this part is intended to relieve any other State or local agency, not responsible for the student's education, of its responsibility for providing or paying for needed transition services for students with disabilities who also meet the eligibility criteria of that agency.

The Secretary also believes that some modifications are needed in the current regulations governing participants at IEP meetings to ensure appropriate consideration of each student's need for transition services. In order to ensure that these IEP meetings include all necessary participants, the Secretary proposes to add paragraph (c) to § 300.344 to require the participation of (1) a representative of the public agency responsible for providing or supervising the provision of transition services, and (2) if appropriate, a representative of each participating agency responsible for providing or paying for needed transition services. The Secretary also proposes to add Comment 2 to § 300.344 to clarify that the public agency responsible for the student's education must ensure that, if appropriate, the student participates at IEP meetings regarding transition services. This comment is derived from the statutory language defining these services as a "coordinated set of activities * * * based upon the individual student's needs, taking into account the student's preferences and interests."

The Secretary particularly invites public comment on whether these proposed regulations will ensure that eligible students with disabilities receive needed transition services or whether additional regulatory guidance should be provided.

E. Comprehensive System of Personnel Development

The Secretary proposes to delete the current regulations at §§ 300.380–300.385 and 300.387 on the comprehensive system of personnel development (CSPD) and to replace them with proposed §§ 300.380–300.383. To reflect the changes in the 1990 Amendments and to increase States' flexibility in this

area, the Secretary proposes more concise regulations, in lieu of the more detailed provisions of CSPD in the current regulations. In accordance with statutory amendments to section 613(a)(3) of the Act, the proposed regulations require each State to establish a CSPD and to include in its State plan a description of the procedures and activities relating to this comprehensive State system. Specifically, under the proposed regulations, each State is required to include in its State plan a description of the procedures and activities it uses for ensuring an adequate supply of qualified personnel necessary to carry out this program, a description of the procedures and activities for continuing education and personnel preparation, and a description of the procedures for the development and maintenance of a system of annual data collection on numbers and types of special education and related services personnel, including leadership personnel, necessary to carry out the purposes of this part.

The Secretary also proposes in § 300.380(a)(2) that each State implement its CSPD consistent with the provisions of § 300.153 (Personnel standards). Under the § 300.153 requirements, each State plan must include the steps the State is taking to upgrade personnel in a specific profession or discipline, if the State educational agency's standards for personnel in that profession or discipline, including standards for temporary or emergency certification, are not based on the highest State certification standards across all State agencies providing special education and related services to children and youth with disabilities.

Since the Secretary anticipates the need for coordination in the implementation of a State's CSPD and its upgrading of personnel in each profession or discipline to meet appropriate State certification standards, the proposed regulations use the terms in § 300.153, if those terms are similar to the language used in section 613(a)(3) of the Act. Therefore, the term "profession or discipline" in § 300.153 is used in lieu of the statutory language "area of specialization" and the term "temporary certification" in § 300.153 is used in lieu of the statutory reference to "other basis."

Under the new statutory requirements, CSPD has been broadened to include recruitment of qualified personnel. To ensure an adequate supply of qualified personnel, proposed § 300.381(b) adds a new requirement that each State include in its State plan a description of the procedures and activities it will undertake in coordination with other State and local educational agencies, institutions of higher education, and professional associations to recruit, prepare and retain qualified personnel, including personnel from minority and disadvantaged backgrounds, as well as personnel with disabilities.

The Secretary also believes that it is particularly important for each State to develop and implement its CSPD consistent with projected needs for personnel who prepare and train personnel employed in the provision of special education and related services, as well as those who administer and supervise those programs, and to use this information in cooperation with institutions of higher education conducting programs for the preparation of special education and related services personnel, including leadership personnel, and in cooperation with local educational agencies recruiting and hiring special education and related services personnel. Paragraphs (a) and (b) of § 300.381 reflect the importance of addressing these personnel needs.

Because of the significant shortages of qualified personnel necessary to carry out the purposes of part B, and the increasing involvement of paraprofessionals in the provision of special education and related services, a new paragraph (c) has been added to § 300.381. Under proposed § 300.381(c) each State plan must include a description of the procedures and activities the State will undertake to enable teacher aides and other paraprofessionals who lack full qualifications (including bachelor's degrees) to acquire necessary credentials for teaching special education. The Secretary emphasizes that the intent of this new provision is to encourage, and not to require, States to retrain teacher aides and other paraprofessionals to meet State standards for teaching special education.

Proposed § 300.382 requires each State plan to include a description of the procedures and activities the State will undertake to ensure that personnel are appropriately and adequately prepared, including procedures for the continuing education or regular education, special education, and related services personnel, including leadership personnel. With respect to continuing education of regular education personnel, the Secretary proposes in paragraph (b) of § 300.382 to make this requirement applicable only to those regular education personnel necessary to carry out the purposes of this part. Proposed § 300.382 retains requirements in the current regulations for adoption of promising practices and dissemination of significant knowledge derived from education, research, and other sources to special education and related services personnel and leadership personnel.

Proposed § 300.383 requires each State plan to include a description of the procedures and activities that the State uses for the development and maintenance of a system for annual data collection on numbers and types of special education and related services personnel, including leadership personnel. In describing the components of a State's system for annual data collection in proposed paragraph (b)(2) of § 300.383, the Secretary adopts, with minor modifications, the list of special education and related services personnel previously included in § 300.126(b), a provision that the Secretary now proposes to delete from these regulations. Because the Department has received several inquiries from parents of children with hearing impairments, including deafness, and from advocacy organizations for these children, the Secretary proposes to add a requirement that the State's system for annual data collection in § 300.383(b) also include interpreters for children with hearing impairments, including deafness.

The Secretary emphasizes that CSPD imposes only a requirement for each State plan to include procedures and activities for a system of annual data collection, and that States no longer will be required to report data on personnel in connection with State plan submissions under this program. However, under section 618 of the Act, States are required to report annually specific data to the Secretary, including data regarding special education and related services personnel. The Secretary stands ready to provide States any needed technical assistance as they implement the data collection and other components of CSPD.

Consistent with the broadened focus of the State's CSPD, the Secretary proposes to delete the current regulations at § 300.382 regarding inservice training and § 300.321(c) prohibiting use of part B funds for preservice training. The Secretary believes that the prohibition in § 300.321(c) of the current regulations was based on prior statutory language and legislative history and is not reflected in the current statute or its legislative history.

The Secretary particularly invites public comment on whether these proposed regulations will ensure effective implementation of the revised statutory requirements on CSPD, or whether additional regulatory guidance or other changes are needed.

II. Other Proposed Regulatory Changes

A. Data Collection and Reporting Requirements

Because State plans are now submitted triennially, rather than annually, States no longer submit annual data with State plans for part B grant awards. Rather, the Secretary requires State educational agencies to report data on an annual basis in accordance with section 618 of the Act. Therefore, these proposed regulations do not retain the data collection and reporting provisions contained in § 300.124 and portions of §§ 300.125–300.127 of the current regulations.

B. Child Find for Infants and Toddlers

Under § 300.128 of the current regulations, States are required to identify, locate, and evaluate all children who have disabilities or who are suspected of having disabilities and who are in need of special education and related services. This requirement is known as "child find" and is applicable to children from birth through 21 years of age. Part H of the Act (Early Intervention Programs for Infants and Toddlers with Disabilities) also contains —a child find requirement for infants and toddlers (incorporated in the regulations at 34 CFR 303.321). To facilitate coordination of child find activities for infants and toddlers conducted under parts B and H of the Act, proposed Comment 2 to § 300.128 has been added to specify that if the State educational agency is not the State's lead agency for the part H program, the State educational agency may designate the State's part H lead agency as the agency responsible for child find for infants and toddlers if there is agreement by both agencies. However, since the State educational agency remains responsible for ensuring that all part B child find requirements are met, the part B State plan must reflect the nature and extent of the participation of the State's part H lead agency in accordance with § 300.128(b)(2) of the current regulations.

C. Procedural Safeguards

1. Additional State Consent Requirements

In an effort to expand opportunities for parent participation in decisions regarding their children's special education programs, the Department has issued policy guidance in recent years permitting States to establish State consent requirements for services and activities provided under this part, outside of the consent requirements in this part for preplacement evaluation and initial placement. The Secretary now proposes to incorporate this policy into the regulations for this program by adding a new paragraph (d) to § 300.504 on prior notice and parent consent.

Proposed paragraph (d) clarifies that States may establish additional State consent requirements for services and activities provided to children with disabilities under this part, such as reevaluations of a child with a disability or continued placement or change of placement of a child with a disability, only if these additional State parental consent requirements are implemented in accordance with § 300.504(b)(2) of the current regulations and in a manner consistent with a public agency's responsibility to ensure the continued provision of a free appropriate public education to a child with a disability. Paragraph (b)(2) of § 300.504 specifies that any parental consent requirement, other than the consent requirements for preplacement evaluation and initial placement, may not operate as a condition of a benefit or service to a parent or child.

Proposed paragraph (d) also provides that States establishing additional State consent requirements must ensure that public agencies have informal procedures and formal procedures for dealing with a parental withholding of consent to those requirements. These procedures must be implemented in all instances in which the parent withholds consent to an additional State consent requirement and the public agency believes that the activity to which the parent has withheld consent is essential in order for the child to receive a free appropriate public education. The Secretary believes that this proposed regulation balances the important principle of parent participation in their children's special education programs with the obligation of each public agency to ensure the continued provision of appropriate special education and related services to all eligible children with disabilities. A new Comment 3 has also been added to clarify this new requirement.

2. Availability of Hearing Decisions to the Public

The Handicapped Programs Technical Amendments Act of 1988 amended section 615(d) of the Act by adding a new requirement that findings of fact and hearing decisions, with the deletion of personally identifiable information, be made available to the public. The current regulations, at § 300.508(a)(5), provide that a party to the hearing has the right to obtain written findings and a hearing decision, and that written findings and hearing decisions, with the deletion of personally identifiable information, must be transmitted to the State advisory panel established under subpart F. Therefore, the Secretary proposes to amend paragraph (a)(5) of § 300.508 by adding the new statutory requirement.

The Secretary invites public comment on whether additional regulatory guidance is needed to implement this statutory change.

3. Officials Conducting State-level Reviews

Since the regulations for this program were published in 1977, a number of courts have construed the requirements for impartiality of State-level review officials. Relying on the legislative history of Public Law 94–142, courts have concluded that the Congress intended to prohibit members of State boards of education, chief State school officers, and other State employees involved in the education or care of the child from serving as review officials if initial due process hearing decisions are appealed to the State educational agency. See *e.g., Helms* v. *McDaniel,* 657 F.2d 800 (5th Cir.) 1981. However, even with this prohibition, the legislative history of Public Law 94–142 emphasizes that the State educational agency remains responsible for ensuring that decisions in State-level reviews satisfy all applicable part B requirements. Therefore, the Secretary proposes to add a new paragraph (c) to § 300.510 and has revised Comment 1 following the section to clarify which officials may not conduct State-level reviews under this program.

D. State Complaint Procedures

On August 18, 1988, the Secretary published a Notice of Proposed Rulemaking at 53 FR 31580 proposing to transfer the State complaint procedures from 34 CFR 76.780–76.782, with minor modifications, to the program-specific regulations to which they relate. Because States receive an especially high volume of Education Department General Administrative Regulations (EDGAR) complaints alleging violations of requirements of part B of the Act and this part, the Secretary proposes to incorporate State complaint procedures in proposed §§ 300.660–300.662. Based on the Department's administration of this program the Secretary believes that

a need exists for greater consistency across State complaint procedures under part B. The Secretary particularly invites public comment from States, parents, and other interested individuals on the modifications to the EDGAR complaint procedures in proposed § 300.661 (a)(2)–(4) and (b), which are described below. Specifically, the Secretary would like to know whether States believe that these modified procedures would impose undue burdens on compliance activities; whether States currently are using these modified procedures; and to the extent that States are not currently using these modified procedures, the burdens that States anticipate. The Secretary also invites public comment from parents and other interested individuals as to whether there is a need for these modified procedures.

If State complaint procedures are incorporated in the final regulations for this program, a technical change will be made to § 300.3 of the current regulations (Regulations that apply to assistance to States for education of handicapped children) to exclude §§ 76.780–76.782 from the provisions of part 76 (State-Administered Programs) that apply to this program.

In these proposed regulations, the Secretary also addresses specific aspects of State complaint procedures as they relate to complaints alleging that a public agency is violating a requirement of part B of the Act and this part.

1. Complaint Procedures that a State Must Adopt

Proposed § 300.660 incorporates the provisions of § 76.780 of EDGAR, but adds a new paragraph (d), which requires that each State educational agency inform parents and other interested individuals about the availability of procedures in §§ 300.660–300.662. By this proposed change, the Secretary requires States to provide parents with information regarding how and where to file complaints alleging violations of requirements of part B of the Act and this part, as well as information regarding the minimum complaint procedures in the State.

2. Minimum State Complaint Procedures

The Secretary proposes to modify the minimum State complaint procedures now in § 76.781 of EDGAR by adding four provisions in proposed § 300.661. The Secretary's experience has indicated that many complainants have not been consulted in connection with complaint resolutions under this program in instances in which their input could have been helpful in facilitating the complaint resolution. Hence, proposed paragraph (a)(2) requires each State educational agency to have procedures for soliciting input from the complainant as part of its minimum compliant procedures.

The Secretary also has found that some States have adopted findings issued by the public agency involved in the complaint without making an independent assessment of the allegations in the complaint. In addition, in a number of instances, complainants have been provided with written decisions that either do not address each of the allegations in the complaint or do not contain an explanation of the findings of fact and conclusions. Therefore, proposed paragraphs (a)(2)–(4) have been incorporated in the proposed regulations to facilitate a State's handling of complaints. Under the modified procedures in proposed § 300.661, each State educational agency is required, within the 60-calendar-day time limit, to: (1) Conduct an independent on-site investigation, if necessary; (2) obtain information from the complainant, either orally or in writing, regarding the allegations in the complaint; (3) review that information in order to make an independent determination; and (4) issue to the complainant a written decision that addresses each of the allegations in the complaint and that contains findings of fact and conclusions, including the reasons for the State educational agency's final decision.

The proposed regulations, at §§ 300.661 (a) and (b), provide that a State educational agency shall issue a written decision within 60 calendar days of receipt of the complaint, unless exceptional circumstances warrant an extension of time. The Secretary believes that the 60-calendar-day time limit can and should be met in the great majority of situations. These proposed regulations also include a requirement at § 300.661(c) for the State educational agency to establish procedures that must be used, if needed, to ensure effective implementation of its final decision.

The provision at 34 CFR 76.781(c) of EDGAR, regarding the right to request the Secretary to review the final State decision, has been retained at proposed § 300.661(d) of these proposed regulations. The Secretary believes that these proposed modifications of the EDGAR complaint procedures will ensure that State educational agencies meet their responsibility to resolve any complaint that a public agency is violating a requirement of part B of the Act or this part.

Executive Order 12291

These proposed regulations have been reviewed in accordance with Executive Order 12291. They are not classified as major because they do not meet the criteria for major regulations established in the order.

Regulatory Flexibility and Certification

The Secretary certifies that these proposed regulations would not have a significant impact on a substantial number of small entities.

To the extent that these proposed regulations would affect States and State agencies, the regulations would not have an impact on small entities, since States and State agencies are not defined as "small entities" in the Regulatory Flexibility Act.

The small entities that would be affected by these proposed regulations are small local educational agencies receiving Federal funds under this program. However, the regulations would not have a significant economic impact on the small local educational agencies affected because the regulations would not impose excessive regulatory burdens or require unnecessary Federal supervision. The regulations would impose minimal requirements to ensure the proper expenditure of program funds.

Paperwork Reduction Act of 1980

Sections 300.125, 300.126, 300.127, 300.128, 300.346, 300.380, 300.381, 300.382, 300.383, 300.504, 300.508, 300.660, 300.661, and 300.662 contain information collection requirements. As required by the Paperwork Reduction Act of 1980, the Department of Education will submit a copy of these sections to the Office of Management and Budget (OMB) for its review (44 U.S.C. 3504(h)).

The 50 States, the District of Columbia, Puerto Rico, 5 territories, and the Department of the Interior are eligible to apply for grants under this program. The Department needs and uses the information submitted by these entities to determine that they meet the regulatory requirements listed above. The 58 eligible entities for the program submit triennial State plans in order to receive part B grant awards. The annual public reporting burden for this information collection for the year of an entity's submission is estimated at 29 hours, including the time for gathering the data needed, and completing and reviewing the collection of information.

Organizations and individuals desiring to submit comments on the information collection requirements should direct them to the Office of Information and Regulatory Affairs,

OMB, Room 3002, New Executive Office Building, Washington, DC 20503; Attention: Daniel J. Chenok.

Intergovernmental Review

This program is subject to the requirements of Executive Order 12372 and the regulations in 34 CFR part 79. The objective of the Executive order is to foster an intergovernmental partnership and a strengthened federalism by relying on processes developed by State and local governments for coordination and review of proposed Federal financial assistance.

In accordance with the order, this document is intended to provide early notification of the Department's specific plans and actions for this program.

Invitation to Comment

Interested persons are invited to submit comments and recommendations regarding these proposed regulations.

To facilitate the analysis of comments, the Secretary requests that commenters identify the specific sections of the proposed regulations that each comment is addressing by including a reference to the section and, if appropriate, the specific paragraph to which each comment relates prior to stating the comment.

All comments submitted in response to these proposed regulations will be available for public inspection, during and after the comment period, in room 3615, Switzer Building, 330 C Street SW., Washington, DC, between the hours of 8:30 a.m. and 4 p.m., Monday through Friday of each week except Federal holidays.

To assist the Department in complying with the specific requirements of Executive Order 12291 and the Paperwork Reduction Act of 1980 and their overall requirement of reducing regulatory burden, the Secretary invites comment on whether there may be further opportunities to reduce any regulatory burdens found in these proposed regulations.

List of Subjects in 34 CFR Part 300

Administrative practice and procedures, Education, Education of individuals with disabilities, Grant programs—education, Privacy, Private schools, Reporting and recordkeeping requirements.

(Catalog of Federal Domestic Assistance Number 84.027; Assistance to States for Education or Handicapped Children)

Dated: May 1, 1991.

Lamar Alexander,

Secretary of Education.

The Secretary proposes to amend title 34 of the Code of Federal Regulations by revising part 300 as follows:

PART 300—ASSISTANCE TO STATES FOR THE EDUCATION OF HANDICAPPED CHILDREN

1. The authority citation for part 300 continues to read as follows:

Authority: 20 U.S.C. 1411–1420, unless otherwise noted.

2. Section 300.5 is amended by adding to paragraph (a) "autism, traumatic brain injury," following "orthopedically impaired,"; redesignating paragraph (b)(11) as paragraph (b)(13); redesignating paragraphs (b)(1)–(b)(10) as paragraphs (b)(2)–(b)(11) respectively; adding new paragraphs (b)(1) and (b)(12); revising paragraph (b)(8) by removing "(i) having an autistic condition which is manifested by severe communication and other developmental and educational problems; or (ii)"; revising the authority citation; and adding a Comment following the section to read as follows:

§ 300.5 Handicapped children.

* * * * *

(b) * * *

(1) *Autism* means a developmental disability significantly affecting verbal and non-verbal communication and social interaction, generally evident before age three, that adversely affects educational performance. Characteristics of autism include—irregularities and impairments in communication, engagement in repetitive activities and stereotyped movements, resistance to environmental change or change in daily routines, and unusual responses to sensory experiences. The term does not include children with characteristics of the disability serious emotional disturbance, as defined in paragraph (b)(9) of this section.

* * * * *

(12) *Traumatic brain injury* means an injury to the brain caused by an external physical force or by an internal occurrence such as stroke or aneurysm, resulting in total or partial functional disability or psychosocial maladjustment that adversely affects educational performance. The term includes open or closed head injuries resulting in mild, moderate, or severe impairments in one or more areas, including cognition; language; memory; attention; reasoning; abstract thinking; judgment; problem-solving; sensory, perceptual and motor abilities; psychosocial behavior; physical functions; information processing; and speech. The term does not include brain injuries that are congenital or degenerative, or brain injuries induced by birth trauma.

* * * * *

(Authority: 20 U.S.C. 1401(a)(1))

Comment. If a child manifests characteristics of the disability category "autism" after age three, that child still could be diagnosed as having "autism" if the criteria in paragraph (b)(1) of this section are satisfied.

3. Section 300.13 is amended by adding to paragraph (a) "including therapeutic recreation," following "recreation," and "including rehabilitation counseling," following "counseling services,"; removing "in schools" following "social work services"; redesignating paragraphs (b)(10)–(b)(13) as paragraphs (b)(11)–(b)(14) respectively; adding a new paragraph (b)(10); revising newly redesignated paragraph (b)(12); and revising the authority citation to read as follows:

§ 300.13 Related services.

* * * * *

(b) * * *

(10) *Rehabilitation counseling services* means services provided by a qualified rehabilitation counseling professional, in individual or group sessions that focus specifically on career development, employment preparation, achieving independence, and integration in the workplace and community of a student with a disability. The term also includes vocational rehabilitation services provided to students with disabilities by vocational rehabilitation programs funded under the Rehabilitation Act of 1973, as amended.

* * * * *

(12) *Social work services* include—

(i) Preparing a social or developmental history on a child with a disability;

(ii) Group and individual counseling with the child and family;

(iii) Working with those problems in a child's living situation (home, school, and community) that affect the child's adjustment in school; and

(iv) Mobilizing school and community resources to enable the child to receive maximum benefit from his or her educational program.

* * * * *

(Authority: 20 U.S.C. 1401(a)(17))

4. A new § 300.15 is added to subpart A to read as follows:

§ 300.15 Act.

As used in this part, *Act* means the Individuals with Disabilities Education Act, formerly the Education of the Handicapped Act.

(Authority: 20 U.S.C. 1400)

5. A new § 300.16 is added to subpart A to read as follows:

§ 300.16 Assistive technology device.

As used in this part, *assistive technology device* means any item, piece of equipment or product system, whether acquired commercially off the shelf, modified, or customized, that is used to increase, maintain, or improve the functional capabilities of children with disabilities.

(Authority: 20 U.S.C. 1401(a)(25))

6. A new § 300.17 is added to subpart A to read as follows:

§ 300.17 Assistive technology service.

As used in this part, *assistive technology service* means any service that directly assists a child with a disability in the selection, acquisition, or use of an assistive technology device. The term includes—

(a) The evaluation of the needs of a child with a disability, including a functional evaluation of the child in the child's customary environment;

(b) Purchasing, leasing, or otherwise providing for the acquisition of assistive technology devices by children with disabilities;

(c) Selecting, designing, fitting, customizing, adapting, applying, retaining, repairing, or replacing of assistive technology devices;

(d) Coordinating and using other therapies, interventions, or services with assistive technology devices, such as those associated with existing education and rehabilitation plans and programs;

(e) Training or technical assistance for a child with a disability, or if appropriate, that child's family; and

(f) Training or technical assistance for professionals (including individuals providing education or rehabilitation services), employers, or other individuals who provide services to, employ, or are otherwise substantially involved in the major life functions of individuals with disabilities.

(Authority: 20 U.S.C. 1401(a)(26))

Comment: The definitions of *assistive technology device* and *assistive technology service* used in this part are taken directly from section 602(a) (25)–(26) of the Act, but in accordance with part B, the statutory reference to "individual with a disability" has been replaced with "child with a disability." The Act's definitions of "assistive technology device" and "assistive technology service" incorporate verbatim the definitions of these terms used in the Technology-Related Assistance for Individuals with Disabilities Act of 1988.

(Authority: 20 U.S.C. 1401(a)(26))

7. A new § 300.18 and Comment are added to subpart A to read as follows:

§ 300.18 Transition services.

As used in this part, *transition services* means a coordinated set of activities for a student, designed within an outcome-oriented process, that promotes movement from school to post-school activities, including post-secondary education, vocational training, integrated employment (including supported employment), continuing and adult education, adult services, independent living, or community participation. The coordinated set of activities must be based on the individual student's needs, taking into account the student's preferences and interests, and must include instruction, community experiences, the development of employment and other post-school adult living objectives, and, if appropriate, acquisition of daily living skills and functional vocational evaluation.

(Authority: 20 U.S.C. 1401(a)(19))

Comment. Transition services for students with disabilities may be special education, if they are provided as specially designed instruction, or related services, if they are required to assist a student with a disability to benefit from special education. The listed activities in the definition of transition services are not exhaustive, but "are only examples of different types of post-school activities."

§ 300.124 [Removed and Reserved]

8. Section 300.124 and the comment following that section are removed, and the section is reserved.

9. Section 300.125 is revised to read as follows:

§ 300.125 Full educational opportunity goal—timetable.

East State plan must contain a detailed timetable for accomplishing the goal of providing full educational opportunity for all children with disabilities.

(Authority: 20 U.S.C. 1412(2)(A))

10. Section 300.126 is revised to read as follows:

§ 300.126 Full educational opportunity goal—facilities, personnel, and services.

Each State plan must include a description of the kind and number of facilities, personnel, and services necessary throughout the State to meet the goal of providing full educational opportunity for all children with disabilities.

(Authority: 20 U.S.C. 1412(2)(A))

11. Section 300.127 is revised to read as follows:

§ 300.127 Priorities.

Each State plan must include information that shows that—

(a) The State has established priorities that meet the requirements under §§ 300.320–300.324;

(b) The State priorities meet the timelines under § 300.122; and

(c) The State has made progress in meeting those timelines.

(Authority: 20 U.S.C. 1412(3))

12. Section 300.128 is amended by adding the designation "*1*" following the designation "*Comment.*" at the end of the section; and adding Comment 2 to read as follows:

§ 300.128 Identification, location, and evaluation of handicapped children.

* * * * *

Comment 2. Under both parts B and H of the Act, States are responsible for identifying, locating, and evaluating infants and toddlers, from birth through two years of age, who have disabilities or who are suspected of having disabilities. If the State educational agency and the State's lead agency for the part H program are different, and if both agencies agree, the State educational agency may designate the State's part H lead agency as the agency responsible for child find activities for infants and toddlers in accordance with paragraph (b) of this section. Regardless of whether the State educational agency has designated the State's part H lead agency as the agency responsible for child find activities for infants and toddlers, the State educational agency shall describe in its part B State plan, in accordance with paragraph (b)(2) of this section, the nature and extent of the participation of the State's part H lead agency in child find activities for infants and toddlers. If the State educational agency has designated the State part H lead agency as the agency responsible for child find activities for infants and toddlers, the State educational agency must maintain general supervision over all child find activities and must ensure that all part B child find requirements are met.

13. A new § 300.308 is added to subpart C to read as follows:

§ 300.308 Assistive technology.

(a) Each public agency shall ensure that assistive technology devices or assistive technology services, or both, as those terms are defined in §§ 300.16–300.17, are made available to any child with a disability who requires an assistive technology device or service in order to receive a free appropriate public education

(b) Assistive technology devices and assistive technology services for children with disabilities may be

provided as special education, related services, or, in the case of children with disabilities to be educated in regular classes, as supplementary aids and services.

(Authority: 20 U.S.C. 1412(2), (5)(B))

§ 300.321 [Amended]

14. Section 300.321 is amended by removing paragraph (c) and the authority citation following paragraph (c).

15. Section 300.344 is amended by adding a new paragraph (c); revising the authority citation; adding before the comment following the section the designation "*Comment 1.*"; and adding Comment 2 to read as follows:

§ 300.344 Participants in meetings.

* * * * *

(c) *Transition services personnel.* For students with disabilities aged 16 years and older, and for students below age 16 whose need for transition services is being considered, the public agency shall ensure that any meeting to develop, review, or revise the student's individualized education program includes—

(1) A representative of the public agency responsible for providing or supervising the provision of transition services; and

(2) If appropriate, a representative of each other participating agency providing the transition services included in the student's individualized education program.

(Authority: 20 U.S.C. 1401 (a)(19), (a)(20); 1412 (2)(B), (4), (6); 1414(a)(5))

* * * * *

Comment 2. The definition of transition services in the Act and in this part states that these services are a "coordinated set of activities * * * based on the student's needs, taking into account the student's preferences and interests." Thus, if appropriate, the public agency responsible for the student's education must include the student at an individualized education program meeting to ensure that the transition services component of the student's individualized education program addresses the student's needs, preferences and interests.

16. Section 300.346 is amended by redesignating paragraphs (d) and (e) as paragraphs (e) and (f) respectively; adding a new paragraph (d); adding a comment following the section, and revising the authority citation to read as follows:

§ 300.346 Content of individualized education program.

* * * * *

(d) A statement of the needed transition services for students beginning no later than age 16 and annually thereafter (and, if determined appropriate for an individual student, beginning at age 14, or younger), including, if appropriate, a statement of each public agency's and each participating agency's responsibilities or linkages, or both, before the student leaves the school setting.

* * * * *

(Authority: 20 U.S.C. 1401 (a)(19), (a)(20); 1412 (2)(B), (4), (6); 1414(a)(5))

Comment. The statement of agency responsibilities or linkages that would need to be included in a student's individualized education program is intended to address shared financial responsibility for providing transition services to students with disabilities.

§§ 300.347, 300.348, 300.349 [Redesignated as §§ 300.348, 300.349 and 300.350]

17. Sections 300.347, 300.348, and 300.349 are redesignated as §§ 300.348, 300.349, and 300.350 respectively.

18. A new § 300.347 is added to read as follows:

§ 300.347 Agency responsibilities for transition services.

(a) If a participating agency, other than the public agency responsible for the student's education, fails to provide agreed upon transition services contained in the individualized education program of a student with a disability, the public agency responsible for the student's education shall reconvene a meeting of all of the participants on the individualized education program team to identify alternative strategies to be implemented to meet the transition objectives that were included in that student's individualized education program.

(b) As used in this subpart, "participating agency" means a State or local agency, other than the public agency responsible for the student's education, that is financially and legally responsible for providing transition services to the student.

(c) Nothing in this part relieves any participating agency, including a State vocational rehabilitation agency, of responsibility to provide or pay for any transition service that the agency would otherwise provide to students with disabilities who meet the eligibility criteria of that agency.

(Authority: 20 U.S.C. 1401 (a)(18), (a)(19), (a)(20); 20 U.S.C. 1412(2)(B))

19. Section 300.380 is revised to read as follows:

§ 300.380 General.

Each State shall—

(a) Develop and implement a comprehensive system of personnel development that—

(1) Meets the requirements in §§ 300.381–300.383; and

(2) Is consistent with the provisions on personnel standards in § 300.153; and

(b) Include in its State plan a description of the personnel development system required in paragraph (a)(1) of this section.

(Authority: 20 U.S.C. 1413 (a)(3), (a)(14))

20. Section 300.381 is revised to read as follows:

§ 300.381 Adequate supply of qualified personnel.

Each State plan must include a description of the procedures and activities the State will undertake to ensure an adequate supply of qualified personnel (as the term "qualified" is defined in § 300.12), including special education and related services personnel and leadership personnel, necessary to carry out the purposes of this part. The procedures and activities must include the development, updating, and implementation of a plan that—

(a) Addresses current and projected special education and related services personnel needs, including the need for leadership personnel; and

(b) Coordinates and facilities efforts among State and local educational agencies, institutions of higher education, and professional associations to recruit, prepare, and retain qualified personnel, including personnel from minority backgrounds, and personnel with disabilities.

(Authority: 20 U.S.C. 1413(a)(3)(A))

(c) Includes a description of the procedures and activities that the State will undertake to enable teacher aides and other paraprofessionals who lack full qualifications (including bachelor's degrees) to acquire, from institutions of higher education, the necessary credentials for teaching special education.

(Authority: 20 U.S.C. 1413(a)(3)(A))

21. Section 300.382 is revised to read as follows:

§ 300.382 Personnel preparation and continuing education.

(a) Each State plan must include a description of the procedures and activities the State will undertake to ensure that all personnel necessary to carry out this part are appropriately and adequately prepared. The procedures and activities must include—

(1) A system for the continuing education of regular and special education and related services personnel;

(2) Procedures for acquiring and disseminating to teachers, administrators, and related services personnel significant knowledge derived from education research and other sources; and

(3) Procedures for adopting, if appropriate, promising practices, materials, and technology, proven effective through research and demonstration.

(b) As used in paragraph (a)(1) of this section, "regular education personnel" includes only regular education personnel who are necessary to carry out the purposes of this part, by providing education or services to children with disabilities.

(Authority: 20 U.S.C. 1413(a)(3)(B))

22. Section 300.383 is revised to read as follows:

§ 300.383 Data system on personnel and personnel development.

(a) *General.* The procedures and activities required in §§ 300.381 and 300.382 must include the development and maintenance of a system for determining, on an annual basis, the data required in paragraphs (b) and (c) of this section.

(b) *Data on qualified personnel.* (1) The system required by paragraph (a) of this section must enable each State to determine, on an annual basis—

(i) The number and type of personnel, including leadership personnel, employed in the provision of special education and related services, by profession or discipline;

(ii) The number and type of personnel who are employed with emergency, provisional, or temporary certification in each profession or discipline who do not hold appropriate State certification, licensure, or other credentials comparable to certification or licensure for that profession or discipline; and

(iii) The number and type of personnel, including leadership personnel, in each profession or discipline needed, and a projection of the numbers of those personnel that will be needed in five years, based on projections of individuals to be served, retirement and other departures of personnel from the field, and other relevant factors.

(2) The data on special education and related services personnel required in paragraph (b)(1) of this section must include audiologists, counselors, diagnostic and evaluation personnel, home-hospital teachers, interpreters for students with hearing impairments including deafness, occupational therapists, physical education teachers, physical therapists, psychologists, rehabilitation counselors, social workers, speech-language pathologists, teacher aides, recreation and therapeutic recreation specialists, vocational education teachers, work study coordinators, and other instructional and noninstructional staff.

(3) The data on leadership personnel required by paragraph (b)(1) of this section must include administrators and supervisors of State or local agencies who are involved in the provision or supervision of services or activities necessary to carry out the purposes of this part.

(c) *Data on personnel development.* The system required in paragraph (a) of this section must enable each State to determine, on an annual basis, the institutions of higher education within the State that are preparing special education and related services personnel, including leadership personnel, by area of specialization, including—

(1) The numbers of students enrolled in programs for the preparation of special education and related services personnel administered by these institutions of higher education; and

(2) The numbers of students who graduated during the past year with certification or licensure, or with credentials to qualify for certification or licensure, from programs for the preparation of special education and related services personnel administered by institutions of higher education.

(Authority: 20 U.S.C. 1413(a)(3)(A))

§§ 300.384, 300.385, 300.337 [Removed and Reserved]

23. Sections 300.384, 300.385, and 300.387 are removed and reserved.

24. Section 300.504 is amended by adding a new paragraph (d); revising the authority citation; adding "*Comment*" before "*2.*" in the Comment following the section; and adding a new Comment 3 to read as follows:

§ 300.504 Prior notice; parent consent.

* * * * *

(d) *Additional State consent requirements.*

(1) In addition to the parental consent requirements in paragraph (b)(1) of this section, States may establish parental consent requirements for other services and activities provided under this part, only if—

(i) The requirement in paragraph (b)(2) of this section is met;

(ii) Each public agency in the State has procedures for dealing with a parental withholding of consent to any additional State parental consent requirement; and

(iii) The procedures required by paragraph (d)(1)(ii) of this section are implemented in all instances in which the public agency believes that the service or activity to which the parent has withheld consent must be provided in order to ensure the continued provision of a free appropriate public education to a child with a disability.

(2) Procedures for dealing with a parental withholding of consent to an additional State parental consent requirement must include—

(i) Informal procedures for resolving the disagreement between the parent and the public agency; and

(ii) Formal procedures for overriding a parental withholding of consent.

(3) States may designate the due process procedures in §§ 300.506–300.513 as the formal procedures required by paragraph (d)(2)(ii) of this section.

(Authority: 20 U.S.C. 1415(b)(1)(C), (D); 1412(2), (6))

* * * * *

Comment 3. If a State establishes an additional consent requirement, and the parent withholds consent because of a disagreement with the public agency over one or more components of a child's special education program—for example, the provision of physical therapy services—the public agency is not relieved of its obligation to implement the other components of the child's program that are in agreement, notwithstanding the parental withholding of consent. This is because consent may not be made a precondition to any benefit to a parent or child under this part, except for preplacement evaluation and initial placement.

Although public agencies must have formal procedures for dealing with parental withholding of consent to an additional State parental consent requirement, they need not implement those procedures in every situation. Public agencies should use their established informal procedures, as appropriate, provided those informal procedures do not operate to deny or delay access to their established formal procedures. However, if, as a result of its informal process, a public agency determines that it is appropriate to reconsider or revise its proposed action, based upon a review of information provided by the parents or other new information, indicating that the child's current evaluation, individualized education program, or placement is appropriate, the public agency would not be required to initiate formal procedures. However, if the disagreement has not been resolved through informal procedures, then the public agency must initiate formal procedures designated for overriding a parental withholding of consent.

25. Section 300.508 is amended by revising paragraph (a)(5) to read as follows:

§ 300.508 Hearing rights.

(a) * * *

(5) Obtain written findings of fact and decisions. The public agency, after deleting any personally identifiable information shall—

(i) Transmit those findings and decisions to the State advisory panel established under subpart F; and

(ii) Make those findings and decisions available to the public.

* * * * *

26. Section 300.510 is amended by adding a new paragraph (c); and revising Comment 1 following the section to read as follows:

§ 300.510 Administrative appeal; impartial review.

* * * * *

(c) The official conducting the review may not be the chief State school officer, a member of the State board of education, or an employee of the State educational agency or any other public agency in the State that is involved in the education or care of the child.

* * * * *

Comment 1. Although the individuals identified in paragraph (c) of this section are prohibited from conducting State-level reviews of hearing decisions, the State educational agency remains responsible for ensuring that the final decision of the review meets all applicable requirements of this section.

* * * * *

27. Subpart F is amended by adding a new center heading "State Complaint Procedures" followed by new §§ 300.660, 300.661, and 300.662 to read as follows:

§ 300.660 Adoption of State complaint procedures.

Each State educational agency shall adopt written procedures for—

(a) Receiving and resolving any complaint that any public agency is violating a requirement of part B of the Act or of this part;

(b) Reviewing an appeal from a decision of a public agency with respect to a complaint;

(c) Conducting an independent on-site investigation of a complaint if the State educational agency determines that an on-site investigation is necessary; and

(d) Informing parents and other interested individuals about the procedures in §§ 300.660–300.662.

(Authority: 20 U.S.C. 2831(a))

§ 300.661 Minimum State complaint procedures.

Each State educational agency shall include the following in its complaint procedures:

(a) A time limit of 60 calendar days after the State educational agency receives a complaint to—

(1) Carry out an independent on-site investigation, if necessary;

(2) Give the complainant the opportunity to submit additional information, either orally or in writing, about the allegations in the complaint;

(3) Review all relevant information and make an independent determination as to whether the public agency is violating a requirement of part B of the Act or of this part; and

(4) Issue a written decision to the complainant that addresses each allegation in the complaint and contains—

(i) Findings of fact and conclusions; and

(ii) The reasons for the State educational agency's final decision.

(b) An extension of the time limit under paragraph (a) of this section only if exceptional circumstances exist with respect to a particular complaint.

(c) Procedures for effective implementation of the State educational agency's final decision, if needed, including technical assistance activities, negotiations, and corrective actions to achieve compliance.

(d) The right to request the Secretary to review the State educational agency's final decision.

(Authority: 20 U.S.C. 2831(a))

§ 300.662 Filing a complaint.

An organization or individual may file a written signed complaint with a State educational agency. The complaint must include—

(a) A statement that a public agency has violated a requirement of part B of the Act or of this part; and

(b) The facts on which the statement is based.

(Authority: 20 U.S.C. 2831(a))

[FR Doc. 91–19682 Filed 8–16–91; 8:45 am]
BILLING CODE 4000–01–M

federal register

Monday
August 19, 1991

Part XI

The President

Proclamation 6322—National Sarcoidosis Awareness Day, 1991

Legislation

Federal Register
Vol. 56, No. 160
Monday, August 19, 1991

Presidential Documents

Title 3—

The President

Proclamation 6322 of August 15, 1991

National Sarcoidosis Awareness Day, 1991

By the President of the United States of America

A Proclamation

Sarcoidosis, a disease that affects many of our fellow citizens and people around the world, remains shrouded in mystery. Skin-related symptoms of this chronic, multi-system disease were first recognized more than 100 years ago; however, the effects of sarcoidosis on other bodily organs were not observed until the first quarter of this century. Today researchers are still trying to learn more about the cause and the nature of this affliction.

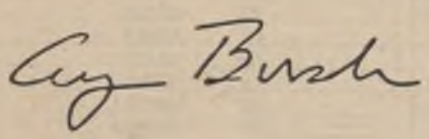
Sarcoidosis can strike people of all races and of all ages, but, according to the United States Department of Health and Human Services, it is most common among black Americans who are between the ages of 20 and 40. While no cause has yet been identified, it is thought that heredity predisposes some individuals to the disease. Intensive research during the past decade has not only supported this belief but also enabled physicians to diagnose and to manage sarcoidosis more effectively.

Today researchers at both the National Institute of Allergy and Infectious Diseases and the National Heart, Lung, and Blood Institute are leading studies on the etiology, diagnosis, and treatment of sarcoidosis. On this occasion, we recognize their work and that of other concerned physicians and scientists throughout the United States. We also salute the victims of sarcoidosis who demonstrate great courage and determination in their efforts to cope with the disease; and we pay tribute to their family members and to other concerned Americans who are engaged in grass-roots efforts to promote awareness of sarcoidosis, as well as improved treatment and support for its victims.

To focus national attention on sarcoidosis, the Congress, by House Joint Resolution 309, has designated August 29, 1991, as "National Sarcoidosis Awareness Day" and has authorized and requested the President to issue a proclamation in observance of this day.

NOW, THEREFORE, I, GEORGE BUSH, President of the United States of America, do hereby proclaim August 29, 1991, as National Sarcoidosis Awareness Day. I invite all Americans to join in observing this day with appropriate programs and activities.

IN WITNESS WHEREOF, I have hereunto set my hand this fifteenth day of August, in the year of our Lord nineteen hundred and ninety-one, and of the Independence of the United States of America the two hundred and sixteenth.



[FR Doc. 91-19972
Filed 8-16-91; 10:38 am]
Billing code 3195-01-M

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LIST OF PUBLIC LAWS

This is a continuing list of public bills from the current session of Congress which have become Federal laws. It may be used in conjunction with "P L U S" (Public Laws Update Service) on 202–523–6641. The text of laws is not published in the **Federal Register** but may be ordered in individual pamphlet form (referred to as "slip laws") from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 (phone, 202–275–3030).

H.R. 1779/Pub. L. 102–84

To designate the Federal building being constructed at 77 West Jackson Boulevard in Chicago, Illinois, as the "Ralph H. Metcalfe Federal Building". (Aug. 10, 1991; 105 Stat. 411; 1 page) Price: $1.00

S.J. Res. 179/Pub. L. 102–85

To designate the week beginning August 25, 1991, as "National Parks Week". (Aug. 10, 1991; 105 Stat. 412; 2 pages) Price: $1.00

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CFR CHECKLIST

This checklist, prepared by the Office of the Federal Register, is published weekly. It is arranged in the order of CFR titles, prices, and revision dates.

An asterisk (*) precedes each entry that has been issued since last week and which is now available for sale at the Government Printing Office.

A checklist of current CFR volumes comprising a complete CFR set, also appears in the latest issue of the LSA (List of CFR Sections Affected), which is revised monthly.

The annual rate for subscription to all revised volumes is $620.00 domestic, $155.00 additional for foreign mailing.

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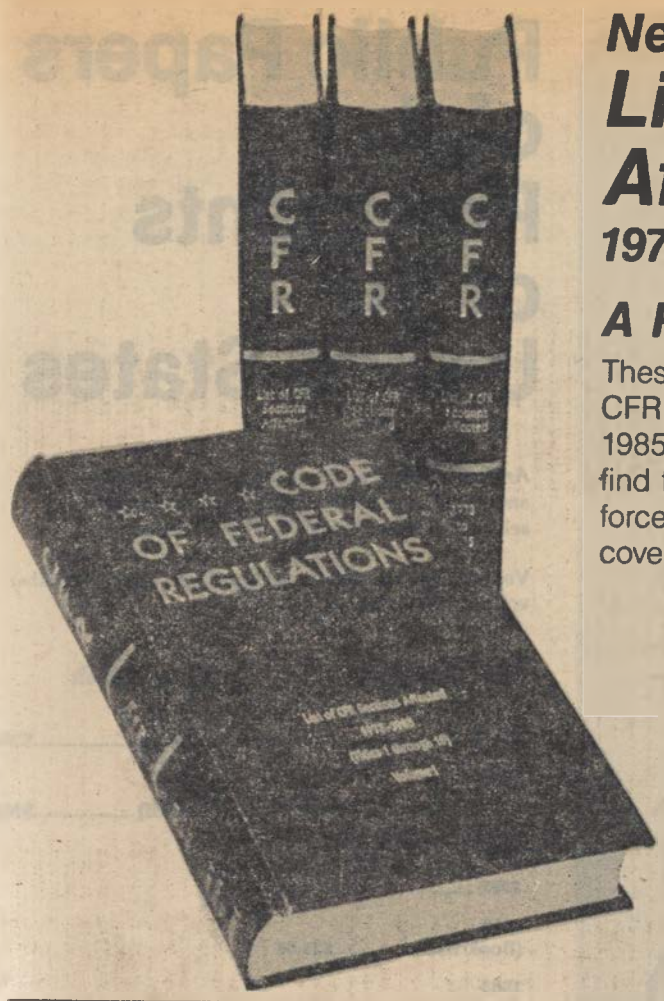
[5] The July 1, 1985 edition of 32 CFR Parts 1–189 contains a note only for Parts 1–39 inclusive. For the full text of the Defense Acquisition Regulations in Parts 1–39, consult the three CFR volumes issued as of July 1, 1984, containing those parts.

[6] The July 1, 1985 edition of 41 CFR Chapters 1–100 contains a note only for Chapters 1 to 49 inclusive. For the full text of procurement regulations in Chapters 1 to 49, consult the eleven CFR volumes issued as of July 1, 1984 containing those chapters.



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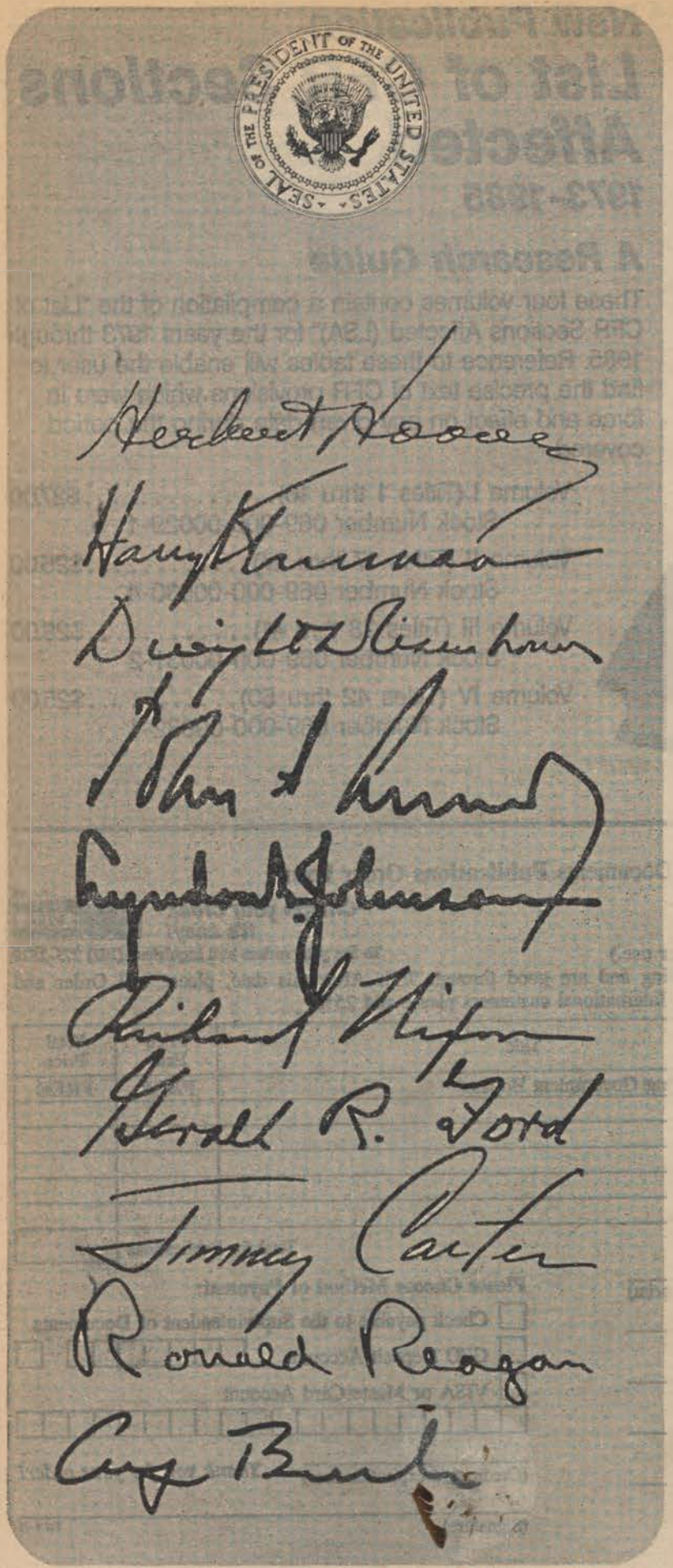

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